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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



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FILE:



Office: LOS ANGELES

Date:

MAR 24 2011

IN RE:

Applicant:



APPLICATION: Application for Status as a Temporary Resident pursuant to Section 245A of the
Immigration and Nationality Act, as amended, 8 U.S.C. § 1255a

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits Center. You no longer have a case pending before this office, and you are not entitled to file a motion to reopen or reconsider your case. If your appeal was sustained or remanded for further action, you will be contacted.

Elizabeth McCormack

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application for temporary resident status pursuant to the terms of the settlement agreements reached in *Catholic Social Services, Inc., et al., v. Ridge, et al.*, CIV. NO. S-86-1343-LKK (E.D. Cal) January 23, 2004, and *Felicity Mary Newman, et al., v. United States Immigration and Citizenship Services, et al.*, CIV. NO. 87-4757-WDK (C.D. Cal) February 17, 2004 (CSS/Newman Settlement Agreements), was denied by the Director, Los Angeles. The decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application because he found the evidence submitted with the application was insufficient to establish eligibility for Temporary Resident Status pursuant to the terms of the CSS/Newman settlement agreements. Specifically, the director noted that the applicant submitted one letter supporting her claim of permanent residence during the relevant period. The declarant stated that the applicant lived at [REDACTED] from 1981 to 1982 and that she knew the applicant for "a long period of time." Additionally, the director noted that the declarant failed to include sufficient detail regarding her relationship with the applicant to be probative and credible. Further, the director stated the during the applicant's April 13, 2007 interview, she stated that she first entered the United States in 1982 and that she did not travel outside of the United States until 1995. The director denied the application on April 19, 2007.

The AAO notes that the applicant's statements during her interview and the declarant's letter provide inconsistent dates. The declarant's letter states that the applicant lived [REDACTED] from 1981 to 1982. However, the applicant stated at her interview that she did not arrive in the United States until 1982. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the applicant submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Doubt cast on any aspect of the applicant's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application.

An applicant for temporary resident status must establish entry into the United States before January 1, 1982, and continuous residence in the United States in an unlawful status since such date and through the date the application is filed. Section 245A(a)(2) of the Act, 8 U.S.C. § 1255a(a)(2). The applicant must also establish that he or she has been continuously physically present in the United States since November 6, 1986. Section 245(a)(3) of the Act, 8 U.S.C. § 1255a(a)(3). The regulations clarify that the applicant must have been physically present in the United States from November 6, 1986 until the date of filing the application. 8 C.F.R. § 245a.2(b)(1).

Pursuant to the terms of the CSS/Newman settlement agreements the following subclasses are entitled to relief:

- A. All persons who are otherwise prima facie eligible for legalization under Section 245A of the Immigration and Nationality Act ("INA") who attempted to file a completed application and application fee with a representative of the Immigration and

Naturalization Service ("INS") including a Qualified Designated Entity ("QDE"), during the period from May 5, 1987, to May 4, 1988, but had the application and fee refused by that representative because they had traveled outside of the United States and returned with a visitor's visa, student visa, or any other type of visa or travel document.

B. All persons who filed for class membership under *Newman et al. v. INS et al.*, 87-4757-WDK(CWx) (C.D. Cal.), and who are otherwise prima facie eligible for legalization under Section 245A of the INA, who were informed by an INS officer or QDE employee during the period May 5, 1987, to May 4, 1988, that they were ineligible for legalization because they had traveled outside of the United States and returned with a visitor's visa, student visa, or any other type of visa or travel document, or were refused by the INS or its QDEs legalization forms on account of that travel and the facially valid visa rule, and for whom such information, or inability to obtain the required application forms, was a substantial cause of their failure to timely file or complete a written application.

On appeal, the applicant does not provide any explanation regarding the inconsistent dates in the record of proceeding nor does she address the director's concern that she did not travel outside the United States until 1995. The applicant states on the Form I-694 that she does not have any documents because she was "under age" and her parents threw away everything when they left the United States. The applicant adds that she has been in the United States "continuous[ly] since 1995 to [the] present" and that she has 3 children who are United States citizens. She provides no additional information or evidence in support of her application.

As stated in 8 C.F.R. § 103.3(a)(3)(iv), any appeal which is filed that fails to state the reason for appeal, or is patently frivolous, will be summarily dismissed.

A review of the decision reveals the director accurately set forth a legitimate basis for denial of the application. The record does not establish that the applicant entered the United States prior to January 1, 1982, or that she left the United States during the initial filing period. On appeal, the applicant has not presented additional evidence. Nor has she addressed the grounds stated for denial. The appeal must therefore be summarily dismissed.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.