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

U.S. Citizenship and Immigration Services

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PUBLIC COPY

[redacted]

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DATE: NOV 08 2011 Office: NEW YORK FILE: [redacted]

IN RE: Applicant: [redacted]

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, New York. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record indicates that the applicant filed a Form I-687 Application for Temporary Resident Status on October 25, 2004. On November 28, 2005, the director denied the application for failure to appear for a scheduled interview and also for his failure to provide an explanation for not appearing. Thus, the director indicated that the application was abandoned.

On September 29, 2010, U.S. Citizenship and Immigration Services (USCIS) informed the applicant that, pursuant to a recent court order, applications for temporary resident status may not be denied based on abandonment. The applicant was informed that he was entitled to file an appeal with the AAO which must be adjudicated on the merits.

On appeal, the applicant states that he did not receive the director's interview notice or decision because the director mailed the letters to the wrong address. The AAO notes that the director mailed the letters to the address of record as listed on the applicant's Form I-687.

The AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). Following *de novo* review, the AAO found that that the director's basis for denial of the Form I-687 was in error. However, the AAO identified alternative grounds for denial of the application. Specifically, the AAO noted that the applicant failed to submit sufficient evidence in support of his application.

In an attempt to establish continuous unlawful residence since before January 1, 1982 through the end of the relevant period, the applicant provided written statements from [redacted] The statements are not probative of either the applicant's entrance to the United States or his continuous residence throughout the relevant period. Further, the statements do not indicate how the declarants date their initial meeting with the applicant, how frequently they had contact with the applicant, or how each had personal knowledge of the applicant's presence in the United States.

The AAO notes that the letters from [redacted] were not signed and therefore have no probative value. Further, there is no evidence that [redacted] have ever lived in the United States and therefore, they have no personal knowledge of the applicant's presence in the United States.

The letters contain statements that the affiants have known the applicant for years and that attest to the applicant being physically present in the United States during the required period. These statements fail, however, to establish the applicant's continuous unlawful residence in the United States for the duration of the requisite period. As stated previously, the evidence must be evaluated not by the quantity of evidence alone but by its quality; an applicant must provide evidence of eligibility apart from his or her own testimony; and the sufficiency of all evidence produced by the applicant will be judged according to its probative value and credibility.

None of the witness statements provide concrete information, specific to the applicant and generated by the asserted associations with the applicant, which would reflect and corroborate the extent of those associations and demonstrate that they were a sufficient basis for reliable knowledge about the applicant's residence during the time addressed in the affidavit. To be considered probative and credible, witness affidavits must do more than simply state that an affiant knows an applicant and that the applicant has lived in the United States for a specific time period. Their content must include sufficient detail from a claimed relationship to indicate that the relationship probably did exist and that the witness does, by virtue of that relationship, have knowledge of the facts alleged. Upon review, the AAO finds that, the witness's statements do not indicate that their assertions are probably true. Therefore, they have little probative value.

The applicant also provided a letter on [redacted] letterhead signed by [redacted] and notarized on September 28, 2004. The letter states that the applicant worked as a dish washer from June 1981 to December 1987 and "took care of the business place at night." Although in his letter [redacted] refers to "boarding and lodging," he does not mention any wages for work from June 1981 to December 1987. In the Form I-687, the applicant also listed "board and lodging" instead of wages.

The letter fails to meet certain regulatory standards set forth at 8 C.F.R. § 245a.2(d)(3)(i), which provides that letters from employers must include the applicant's address at the time of employment; exact period of employment; whether the information was taken from official company records and where records are located and whether USCIS may have access to the records; if records are unavailable, an affidavit form-letter stating that the employment records are unavailable may be accepted which shall be signed, attested to by the employer under penalty of perjury and shall state the employer's willingness to come forward and give testimony if requested. The letter submitted does not include much of the required information and can only be accorded minimal weight as evidence of the applicant's residence in the United States for the duration of the requisite period.

Finally, the record of proceeding contains a letter on Bangladesh Society Inc., New York dated September 30, 2004 and signed by [redacted] general secretary. In his letter [redacted] states that the applicant is a member in good standing and that according to its records the applicant has volunteered during many cultural and ceremonial events since 1985.

The regulation at 8 C.F.R. § 245a.2(d)(3)(v) provides requirements for attestations made on behalf of an applicant by churches, unions, or other organizations. Attestations must: (1) Identify applicant by name; (2) be signed by an official (whose title is shown); (3) show inclusive dates of membership; (4) state the address where applicant resided during membership period; (5) include the seal of the organization impressed on the letter or the letterhead of the organization, if the organization has

letterhead stationery; (6) establish how the author knows the applicant; and (7) establish the origin of the information being attested to.

[redacted] letter does not comply with the regulation at 8 C.F.R. § 245a.2(d)(3)(v) because it does not: state the address where the applicant resided during his membership period; or establish in detail that the author knows the applicant and has personal knowledge of the applicant's whereabouts during the requisite period. For this reason, the letter is not deemed probative and is of little evidentiary value.

On September 13, 2011, the AAO issued a notice of intent to deny (NOID) informing the applicant of the deficiencies in the record and providing him with an opportunity to respond. No response has been received.

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. Given the paucity of credible evidence contained in the record and the applicant's failure to respond to the NOID, the appeal will be summarily dismissed.

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