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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**

PUBLIC COPY



DATE: NOV 18 2011

Office: NEW YORK

FILE: 

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:



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.

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 decision 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 February 24, 2009. On October 8, 2009, the director denied the application noting that the applicant failed to appear at an interview with United States Citizenship and Immigration Services (USCIS) without providing notice or cause. Thus, the director indicated that the application was abandoned.

USCIS subsequently informed the applicant that, pursuant to a recent court order, applications for temporary resident status may not be denied based on abandonment. He was informed that he was entitled to file an appeal with AAO which must be adjudicated on the merits.

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 credible evidence of his continuous residence during the relevant period or his class membership under

On October 6, 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. The applicant submitted a statement indicating that he has lost all proof of his entry and that he is unable to furnish any additional evidence. He indicates that the testimony submitted is credible, however, he does not address the issues noted in the NOID.

¹ [REDACTED]. The AAO finds that the applicant is not a member of the [REDACTED] class because he has not submitted any evidence which indicates that he entered the United States in a legal nonimmigrant status. While the applicant does state that he entered the United States on January 1, 1981 in B1/B2 nonimmigrant visitor status, he has failed to present any documentation of this entry, including a passport, B1/B2 visa or I-94 card. Furthermore, on his Form I-687 he indicates that he was issued a B/2 nonimmigrant visa at the United States Consulate in [REDACTED] in June 1980 which was valid until December 1980. However, the applicant does not explain how he entered the United States in B/2 status in January 1981 when his B/2 visa allegedly expired in December 1980. The applicant also indicates at Part 29 of the Form I-687 that while he did violate his legal status prior to January 1, 1982, the violation was not known to the United States government. Thus, the applicant has not met his burden of establishing that he is eligible for class membership pursuant to the [REDACTED] agreements.

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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, the appeal will be summarily dismissed.

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