identifying data deleted to
prevent clea[illegible] warranted
invasion of personal privacy

PUBLIC COPY

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

[redacted]

L1

Date: NOV 18 2011 Office: NATIONAL BENEFITS CENTER 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:

[redacted]

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 of the National Benefits Center. The decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director erroneously denied the I-687 application, finding that the applicant abandoned the application, pursuant to 8 C.F.R. § 103.2(b)(13), by failing to respond to a notice of intent to deny (NOID) the application.[1] Because the director erred in denying the application based on abandonment, on October 12, 2010, the director issued a notice advising the applicant of the right to appeal to the AAO. On October 6, 2011, the AAO withdrew the director's decision. The matter is now before the AAO on appeal.

On October 6, 2011, the AAO issued a NOID regarding the I-687 application, informing the applicant of deficiencies in the record and providing him with an opportunity to respond.[2] Specifically, the AAO requested that the applicant provide evidence that he entered the United States before January 1, 1982, and that he continuously resided in the United States in an unlawful status since such date for the duration of the requisite period. The applicant has not submitted any evidence in response to the AAO's request.

As stated previously, to meet his or her burden of proof, an applicant must provide evidence of eligibility apart from the applicant's own testimony, and the sufficiency of all the evidence produced by the applicant will be judged according to its probative value and credibility. 8 C.F.R. § 245a.2(d)(6). Here, the applicant has failed to provide probative and credible evidence of his continuous residence in the United States for the duration of the requisite period.

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.

---

[1]On December 14, 2009, the United States District Court for the Eastern District of California ruled that United States Citizenship and Immigration Services (USCIS) may not apply its abandonment regulation, 8 C.F.R. § 103.2(b)(13), in adjudicating legalization applications filed by CSS class members. *See, CSS v. Michael Chertoff,* Case 2:86-cv-01343-LKK-JFM.

[2]The NOID noted that, at the time of completing the I-687 application, the applicant did not list any residences or employment in the United States during the requisite period. He did not list any absences from the United States during the requisite period. He did not submit any evidence in support of a claim of entry into the United States prior to January 1, 1982, or a claim of continuous residence in the United States during the requisite period.

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