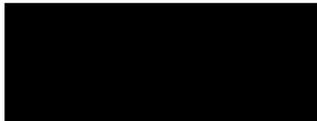


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**U.S. Department of Homeland Security**  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W. MS 2090  
Washington, DC 20529-2090



**U.S. Citizenship  
and Immigration  
Services**



L<sub>1</sub>

Date: **OCT 06 2011**

Office: NATIONAL BENEFITS CENTER

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 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 appear for a scheduled fingerprint appointment.<sup>1</sup> Because the director erred in denying the application based on abandonment, on September 22, 2010, the director issued a notice advising the applicant of the right to appeal the AAO. On August 17, 2011, the AAO withdrew the director's decision. The matter is now before the AAO on appeal.

On August 17, 2011, the AAO issued a NOID informing the applicant of the deficiencies in the record and providing her with an opportunity to respond. Specifically, the AAO requested that the applicant provide evidence that she entered the United States before January 1, 1982, and that she continuously resided in the United States in an unlawful status since such date for the duration of the requisite period. In addition, the AAO requested that the applicant provide a listing of all of her entries and exits from the United States, since the date of her initial entry and through the end of the requisite statutory period.<sup>2</sup> 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.

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<sup>1</sup> 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 [REDACTED]

<sup>2</sup> The NOID noted that there are inconsistencies in the record regarding the date of the applicant's initial entry into the United States, the dates when she resided at particular locations in the United States, and the dates of her absences from the United States during the requisite statutory period. At the time of completing the instant Form I-687 application, the applicant listed residences in the United States from April 1981 through the end of the requisite period and employment in the United States as a housekeeper from May 1981 through the end of the requisite period. The applicant listed two absences from the United States during the requisite period, from June to July 1985 and in December 1986, respectively. In the Form I-589 application signed by her in 1995, the applicant stated at page 6, part E of the application that she resided in [REDACTED] Jamaica from 1954 to 1991. The record contains a Form G-325A, biographic information sheet, signed by the applicant in 1995, and filed contemporaneously with the I-589 application. The Form G325A requests applicants to list their last address outside the United States of more than one year. On this form the applicant stated that she resided in [REDACTED] Jamaica from April 1954 until July 1991. At the time of her interview in 1995 on the Form I-589 application, the applicant stated that she first came to the United States in 1989 for three weeks as a B-2 nonimmigrant visitor.

8 C.F.R. § 245a.2(d)(6). Here, the applicant has failed to provide probative and credible evidence of her 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.

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