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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**



L1

Date:

OCT 13 2011

Office: NEW YORK OFFICE

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:

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.



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 [REDACTED] (E.D. Cal) January 23, 2004, and *Felicity Mary Newman, et al., v. United States Immigration and Citizenship Services, et al.*, CIV. NO. [REDACTED] (C.D. Cal) February 17, 2004 (CSS/Newman Settlement Agreements), was denied by the director of the New York office. 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 interview on April 12, 2006.¹ Because the director erred in denying the application based on abandonment, on October 6, 2010, the director of the National Benefits Center issued a notice advising the applicant of the right to appeal to the AAO. On August 30, 2011, the AAO withdrew the director's decision. The matter is now before the AAO on appeal.

On August 30, 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. 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. In addition, the AAO requested that the applicant provide a listing of all of his entries and exits from the United States, since the date of his initial entry and through the end of the requisite statutory period.² In response to the AAO's request, the applicant submitted an additional statement, in which he asserts that the evidence previously submitted by him establishes by a preponderance of the evidence that he continuously resided in the United States in an unlawful status for the duration of the requisite period. The applicant has not submitted any additional 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.

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 [REDACTED]

² The NOID noted that the record of proceedings contains materially inconsistent statements from the applicant regarding the date of his initial entry into the United States. The record reveals that on December 5, 2001, the applicant filed a Form I-485, application to adjust to permanent resident status based on an underlying I-130 petition filed by his ex-wife. He filed with that application a Form G-325A, biographic information sheet, signed by him on November 21, 2001. The Form G-325A requests applicants to list their last address outside the United States of more than one year. On the form, the applicant stated that he resided in Gujrat, Pakistan from February 1967 until August 1999.

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.