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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: **APR 20 2012**

Office: GARDEN CITY

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 Garden City 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 scheduled interviews on June 1, 2005, February 13, 2006 and June 29, 2006, respectively.<sup>1</sup> Because the director erred in denying the application based on abandonment, on October 4, 2010, the director of the National benefits Center issued a notice advising the applicant of the right to appeal the AAO. On January 23, 2012, the AAO withdrew the director's decision. The matter is now before the AAO on appeal.

On January 23, 2012, the AAO issued a 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.<sup>2</sup> In response to the AAO's request, the applicant requested, and was granted an extension of time within which to respond. The applicant has not submitted any further 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.

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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 2:86-cv-01343-LKK-JFM.

<sup>2</sup>The NOID noted that at the time of completing the I-687 application, the applicant listed a residence at the Mansfield Hotel on 50<sup>th</sup> Street in New York from January 1981 to April 1988. He listed employment in New York from 1981 to 1987, although he did not state the nature of his employment. The applicant listed one absence from the United States during the requisite period, from April 1988 through the end of the requisite period. However, he did not submit any evidence in support of his claim of continuous residence in the United States for the duration of the requisite period. In addition, the NOID noted that the record contains a copy of a certificate of ordination number 121286, stating that on September 29, 1986 in Nigeria the applicant was ordained as a pastor in the Christ Apostolic Church, Nigeria. This document is inconsistent with the applicant's testimony in the I-687 application, in which he does not list any absence from the United States in 1986, and, instead, states that during this period he resided in New York. The applicant has not provided a reasonable explanation for this inconsistency.

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.