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

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PUBLIC COPY

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[redacted]

DATE: APR 2 3 2012 Office: LOS ANGELES 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 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, Los Angeles. The matter 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 January 9, 2006. On March 21, 2007, the director denied the application noting that the applicant failed to respond to the director's request for evidence (RFE). Thus, the director indicated that the application was abandoned. On March 8, 2011, the director issued an amended notice of decision.

On March 8, 2011, U.S. Citizenship and Immigration Services (USCIS) informed the applicant that, pursuant to a recent court order, applications for temporary resident status may not be denied based on abandonment. [1] The applicant was informed that he was entitled to file an appeal with the AAO which must be adjudicated on the merits.

On appeal, the applicant submits additional affidavits. On the Form I-694, counsel states that the applicant previously submitted school records from 1987 and immunization records from 1985 to 1986. Counsel also states that the school does not have any records prior to 1987 and that the applicant does not have any recollection of starting school prior to 1985.

The AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ,* 381 F.3d 143, 145 (3d Cir. 2004).

On February 21, 2012, the AAO issued a NOID informing the applicant of the deficiencies in the record and providing her with an opportunity to respond. No response has been received.

In an attempt to establish continuous unlawful residence since before January 1, 1982 through the end of the relevant period, the applicant provided written statements from [redacted]

In their affidavit and letter, [redacted] state that they have known the applicant since 1982. In his letter, [redacted] states that he has known the applicant since 1981. The statements do not provide any details about how they met the applicant, whether they met her in the United States or how they remember meeting her in 1982 and 1981.

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[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.

In his affidavit, states that he has known the applicant since he was born in May 7, 1987 and that she lived with his parent's since 1981. was a baby during the requisite period and he has no personal knowledge of the applicant living with his parents before his birth. This affidavit has no probative value.

In his affidavit, states that he first met the applicant at a cousin's baptism in September 1981. also states that he is a good friend of the applicant's uncle, This affidavit will be given some weight.

In his letter dated May 26, 2011, the applicant's father, states that he left the applicant under his mother's care in 1979 and he moved to Tijuana. He states that in 1981 the applicant's grandparents took her to California and that he supported the move. states that he was able to visit for special occasions such as the applicant's birthday, Christmas and New Year's. also states that his brother, "who lived in California and still does" wanted his mother to come and live with him. This letter will be given some weight.

In her letter, states that after her daughter's accident on February 14, 1981, the applicant and her grandparents, who are now deceased, visited her in October 1981 and stayed for the holidays. states that the applicant and her grandparents then stayed with their son and the applicant's uncle, in Los Angeles. states that she drove to Los Angeles "once in a while" to visit her sister, the applicant's grandmother, and the applicant's grandmother would visit her from "time to time." She adds that she took the applicant and her grandparents to Disneyland on one occasion. does not state how long the applicant and her grandparents stayed with or during which years she visited the applicant and her grandparents in Los Angeles. This letter will be given some weight.

The AAO notes that the applicant was four years old in 1981 and there is no evidence in the record of proceeding of her care and financial support as a minor during the requisite period. In their statements, state that the applicant lived at her uncle, house. In his statement, states that the applicant's uncle, still alive. Although the applicant has submitted statements from several people saying that she stayed at house, the applicant has not submitted a statement from stating as much.

The record contains a photocopy of a school record from the indicating that the applicant attended the school from March 17, 1987 to December 16, 1988. The AAO notes that is not listed on the letterhead as one of the schools in the School District. located at California is listed on the letterhead.[2] However, it is not clear why the letter lists the applicant's school of enrollment as In the February 21, 2012, the AAO requested original school transcripts beginning in 1985. The applicant did not submit the requested transcripts.

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[2] The AAO obtained the Elementary School address at the District webpage as listed on the letterhead, on February 16, 2012.

The record also contains an immunization record for the applicant listing vaccines in 1985 and 1986. This is some evidence that the applicant was in the United States in 1985 and 1986.

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.