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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

[redacted]

Date: JUL 3 0 2012 Office: HOUSTON FILE: [redacted]

IN RE: Applicant: [redacted]

APPLICATION: Application for Temporary Resident Status under 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 director of the Houston office terminated the temporary resident status of the applicant, pursuant to the terms of the CSS/Newman Settlement Agreements, finding the applicant to be ineligible for temporary resident status based on both a lack of documentation and inconsistent documentation in the record of proceedings. The appeal will be rejected as untimely filed.[1]

In order to properly file an appeal, the regulation at 8 C.F.R. § 103.3(a)(2)(i) provides that the affected party must file the complete appeal within 30 days of service of the unfavorable decision. If the decision was mailed, the appeal must be filed within 33 days. *See* 8 C.F.R. § 103.8(b). In accordance with 8 C.F.R. § 103.2(a)(7)(i), an application received in an office of the United States Citizenship and Immigration Services (USCIS) shall be stamped to show the time and date of actual receipt, if it is properly signed, executed, and accompanied by the correct fee. For calculating the date of filing, the appeal shall be regarded as properly filed on the date that it is so stamped by the service center or district office.

The record indicates that the director issued the decision on April 24, 2012 and mailed it to the applicant's address of record. According to the date stamp on the Form I-694 Notice of Appeal, it was received by USCIS on June 1, 2012, or 38 days after the decision was issued. Accordingly, the appeal was untimely filed. Neither the Act nor the pertinent regulations grant the AAO the authority to extend the 33-day time limit for filing an appeal.

In addition, while the AAO may *sua sponte* reopen, on its own motion, a matter previously adjudicated, the record reveals no error in the adjudication of the application for temporary resident status that would warrant reopening.

While the applicant has submitted additional evidence with his appeal, the AAO does not find that this evidence warrants reopening the case. On appeal, the applicant has submitted statements from [redacted] and [redacted] The statements are general in nature and state that the witnesses have knowledge of the applicant's residence in the United States for all, or a portion of, the requisite statutory period.[3]

Although the witnesses claim to have personal knowledge of the applicant's residence in the United States during the requisite period, the witness statements do not provide concrete information, specific to the applicant and generated by the asserted associations with him, which would reflect and corroborate the extent of those associations, and demonstrate that they were a

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[1] An attorney has filed the instant I-694, Notice of Appeal, on the applicant's behalf. However, the attorney has not provided a completed Form G-28, Notice of Entry of Appearance as Attorney or Representative. Therefore, the attorney will not be provided a copy of this decision. In addition, since the AAO has determined that favorable action is not warranted, as set forth in this decision, the attorney will not be requested to submit the G-28 form.

[2] Also on appeal, the applicant submitted a copy of his marriage certificate, showing that he was married in Texas in 1995. This document was previously submitted into the record. However, because evidence of residence after May 4, 1988 is not probative of residence during the requisite period, this document shall not be discussed.

[3] The AAO notes that the statements of [redacted] and [redacted] use almost identical language.

sufficient basis for reliable knowledge about the applicant's residence in the United States during the requisite period. To be considered probative and credible, witness statements must do more than simply state that a witness knows an applicant and that the applicant has lived in the United States for a specific period. Their content must include sufficient detail from a claimed relationship to indicate that it probably did exist and that the witness, by virtue of that relationship, does have knowledge of the facts alleged. For instance, the witnesses do not state how they date their initial meeting with the applicant in the United States, or specify social gatherings, other special occasions or social events when they saw and communicated with the applicant during the requisite period. The witnesses also do not state how frequently they had contact with the applicant during the requisite period, and do not provide specific locations where the applicant resided or worked during that period. The witnesses do not provide sufficient details that would lend credence to their claimed knowledge of the applicant's residence in the United States during the requisite period. For these reasons the AAO finds that the witness statements do not indicate that their assertions are probably true.

Further, it is noted that on January 10, 2010, the director issued a Notice of Intent to Terminate (NOIT) the applicant's temporary residence status. The temporary resident status of an alien may be terminated upon the determination that the alien was ineligible for temporary residence. Section 245A(b)(2)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1255a(b)(2)(A), and 8 C.F.R. § 245a.2(u)(i). The NOIT advised the applicant of inconsistencies in the record and instructed the applicant to submit evidence of his continuous residence in the United States throughout the requisite statutory period. The applicant did not respond to the NOIT. The failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the application. 8 C.F.R. § 103.2(b)(14). In terminating the applicant's temporary resident status, the director concluded that the applicant failed to establish his continuous residence in the United States throughout the requisite statutory period. As in the present matter, where an applicant has been put on notice of a deficiency in the evidence and has been given an opportunity to respond to that deficiency, the AAO will not accept evidence offered for the first time on appeal. *See Matter of Soriano*, 19 I&N Dec. 764 (BIA 1988); *Matter of Ohaigbena*, 19 I&N Dec. 533 (BIA 1988). If the applicant had wanted the submitted evidence to be considered, he should have submitted the documents in response to the NOIT. *Id.* Under the circumstances, the AAO need not, and does not, consider the sufficiency of the evidence submitted with the motion.

The record reveals no error in the adjudication of the application for temporary resident status that would warrant reopening the matter *sua sponte*. The appeal was untimely filed and must be rejected.

ORDER: The appeal is rejected.