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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
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Washington, DC 20529-2090

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

[REDACTED]

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Date: **MAR 05 2012** Office: NATIONAL BENEFITS CENTER 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 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.


for 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 applicant, a native of Mexico who claims to have lived in the United States since 1981, submitted a Form I-687, Application for Status as a Temporary Resident under section 245A of the Immigration and Nationality Act (Act), and a Form I-687 Supplement, CSS/Newman (LULAC) Class Membership Worksheet on September 28, 2005. 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 respond to a notice of intent to deny (NOID) the application.¹ Because the director erred in denying the application based on abandonment, on October 12, 2010, the director issued a notice advising the applicant of the right to appeal to the AAO. On January 11, 2012, the AAO withdrew the director's decision. The matter is now before the AAO on appeal.

On January 11, 2012, the AAO issued a NOID informing the applicant of the deficiencies in the record and providing her with an opportunity to respond and provide additional evidence. 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.² The applicant has not submitted any evidence in response to the AAO's request.

As previously stated in the NOID, 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 her 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 2:86-cv-01343-LKK-JFM.

² The NOID noted that at the time of completing the I-687 application, the applicant listed a residence in Rialto, California, from 1981 through the date she filed the Form I-687 in 2005. The applicant does not list any absences from the United States during the requisite period. However, the applicant has not submitted any credible evidence in support of her asserted date of entry into the United States and continuous residence in the United States during 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.