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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

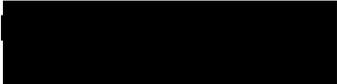


**U.S. Citizenship  
and Immigration  
Services**

L1



DATE: Office: NEW YORK

FILE: 

**MAR 29 2012**

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 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, New York. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.<sup>1</sup>

The record indicates that the applicant filed a Form I-687 Application for Temporary Resident Status on September 28, 2005. On July 28, 2006, the director denied the application noting that the applicant failed to appear for a scheduled interview on [REDACTED] and failed to provide a valid reason for not attending the interview. Thus, the director indicated that the application was abandoned.

On [REDACTED] 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.<sup>2</sup> 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 states that he never received the interview notice. The AAO notes that the interview notice was sent to the applicant's address of record.

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

On February 1, 2012, the AAO issued a NOID informing the applicant of the deficiencies in the record and providing him 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 her affidavit, [REDACTED] states that she met the applicant in 1984 when he rented from her and lived there for 6 years. [REDACTED] does not provide the address of the "place" that the applicant rented from her.

The record contains two affidavits from [REDACTED]. In her affidavit dated February 16, 2010, [REDACTED] states that she picked up the applicant from [REDACTED]

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<sup>1</sup> Evidence of record indicates that the applicant appealed the director's class determination denial to the Special Master. The AAO assumes that the applicant's class membership is established.

<sup>2</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.

█ does not state how she remembers the date. In her affidavit dated June 4, 2005, █ states that she first met the applicant in 1981 through a mutual friend. █ does not mention picking up the applicant from the airport in her first affidavit and states that she first met the applicant in 1981 through a friend. █ affidavits appear to be inconsistent with each other.

In their affidavits September 2, 2009, █ state that they first met the applicant in 1981, but the affiants do not state that they met the applicant in the United States. In a second affidavit dated May 4, 2005, █ states that he has known the applicant since 1984. █ affidavits appear inconsistent with each other.

The AAO notes that the affidavits submitted are inconsistent with other documents in the record of proceeding and are not specific enough to establish the applicant's residence as described below.

The affidavits all contain statements that the affiants have known the applicant for years and that attest to the applicant being physically present in the United States during the required period. These statements fail, however, to establish the applicant's continuous unlawful residence in the United States for the duration of the requisite period. As stated previously, the evidence must be evaluated not by the quantity of evidence alone but by its quality; an applicant must provide evidence of eligibility apart from his or her own testimony; and the sufficiency of all evidence produced by the applicant will be judged according to its probative value and credibility.

None of the witness statements 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 sufficient basis for reliable knowledge about the applicant's residence during the time addressed in the affidavits. To be considered probative and credible, witness affidavits must do more than simply state that an affiant knows an applicant and that the applicant has lived in the United States for a specific time period. Their content must include sufficient detail from a claimed relationship to indicate that the relationship probably did exist and that the witness does, by virtue of that relationship, have knowledge of the facts alleged. Upon review, the AAO finds that, individually and together, the witness statements do not indicate that their assertions are probably true. Therefore, they have little probative value.

The record of proceeding also contains photocopies of photographs. Although photographs may indicate presence in the United States on the dates listed, they cannot be verified and therefore, can only be accorded minimal weight as evidence of residence.

The AAO notes that the record contains other forms and statements signed by the applicant under penalty of perjury. On the Form I-589, the applicant states that he first arrived in the United States on February 15, 1988. On the Form I-589, at Part #24, the applicant also states that he has never traveled to the United States before. In addition, the record contains a Form G-325A signed by the applicant on July 4, 1995 stating that he lived in █. The record also contains passport photocopies of a B-2 visa dated February 6, 1984, a B-1/B-2 visa dated July 21, 1989, and date stamps for entry into the United States on February 10, 1984, 1989, 1991, March 24, 1994, May 19, 1996, and October 17, 1996. The information in the Forms I-589, G-325A, and the passport photocopies are inconsistent with the information that the applicant

submitted in the Form I-687 application signed on July 21, 2005. The applicant may also be inadmissible due to fraud or willfully misrepresenting a material fact, seeking to procure a visa, other documentation, or admission into the United States or other benefit provided under the Act. *See* § 212(a)(6)(C)(i) of the Act.

The applicant's statements indicate that he first arrived in the United States on February 15, 1988 and that he is therefore statutorily ineligible for temporary resident status. There is also evidence in the record of proceeding that indicates that the applicant entered the United States on February 10, 1984 with a visitor's visa.

It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the applicant submits competent objective evidence pointing to where the truth lies. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. *See Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

The applicant claims that he is a member of the [REDACTED]. The record contains no visa entry stamp indicating his nonimmigrant entry into the United States on or before January 1, 1982 or specific testimony indicating how, when and where he obtained the nonimmigrant visa and the manner of his entry into the United States.

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.