

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

[REDACTED]

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Date: **NOV 09 2012**

Office: HOUSTON

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.

Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The director of the Houston office terminated the temporary resident status of the applicant. The decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

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, or *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 approved on September 19, 2006. On April 3, 2012, the director of the Houston office terminated the temporary resident status of the applicant, 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.

Counsel filed the instant appeal on April 30, 2012. Where asked to briefly state the basis for the appeal on the Form I-694, Notice of Appeal, counsel stated as follows:

The appellant's evidence of continuous residency is credible and verifiable. Appellant's evidentiary and supporting documentation and affidavits are sufficient for approval by the preponderance of the evidence and conform to standards of eligibility as set forth in INA 245A et seq. Minor discrepancies in dates should not affect the application as dates are based on recollection of events some 20 years earlier and do not constitute material inconsistencies. Appellant would herein request approval of his I-687 Temporary Resident application and I-698 Application to Adjust Status From Temporary to Permanent Resident.

Counsel has not submitted a brief on appeal. The applicant has not submitted any further evidence on appeal. Without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner's burden of proof. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

The AAO agrees with the director that the applicant has not provided a reasonable explanation for inconsistencies in the record regarding the date of his initial entry into the United States, the dates he resided and worked at particular locations in the United States during the requisite statutory period, and the dates of his absences from the United States during that 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.

A review of the decision reveals the director accurately set forth a legitimate basis for termination of the applicant's temporary resident status. On appeal, counsel for the applicant has not addressed the

grounds stated for termination, and has not presented additional evidence relevant to the grounds for termination. The appeal must therefore be summarily dismissed.<sup>1</sup>

**ORDER:** The appeal is dismissed. This decision constitutes a final notice of ineligibility.

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<sup>1</sup>The AAO notes that on [REDACTED] 2005, the applicant was charged with a violation of the Texas Penal Code, *Indecent Exposure*, a Class B misdemeanor. On [REDACTED] 2005, the applicant pleaded guilty to the charge, the applicant was placed on community supervision for one year and ordered to pay a fine, and the adjudication of the case was deferred for one year. The applicant's period of community supervision expired and his deferred adjudication of guilt was terminated on [REDACTED] 2006. [REDACTED] Criminal Court at Law Number 8, case number [REDACTED]. The AAO notes that a conviction for indecent exposure has been held not to be a crime involving moral turpitude (CIMT). See *Matter of H-*, 7 I. & N. Dec. 301 (BIA 1956); *Matter of Mueller*, 11 I. & N. Dec. 268 (BIA 1965). The record also reveals that on [REDACTED] 1996, deportation proceedings were instituted against the applicant on a superceding Order to Show Cause, asserting that the applicant was deportable pursuant to section 241(a)(1)(A) of the Act, 8 U.S.C. section 1251(a)(1)(A), as one who was excludable at entry under section 212(a)(6)(C)(i) of the Act, as amended, U.S.C. § 1182(a)(6)(C)(i), for having sought through fraud or misrepresentation of a material fact, that being a false claim to United States citizenship, to secure an immigration benefit. On August 13, 1997, the immigration judge ordered the applicant to be removed should he not voluntarily depart by February 13, 1998, which date was subsequently extended to October 5, 2001 by the Board of Immigration Appeals (BIA). The record reflects that the applicant departed the United States to Mexico on January 24, 2002.