

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]

41

Date: NOV 30 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 December 4, 2006. On April 24, 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 a lack of documentation in the record of proceedings.

The instant appeal was filed on June 18, 2012. Where asked to briefly state the basis for the appeal on the Form I-694, Notice of Appeal, counsel for the applicant stated as follows:

The field office director failed and erred in evaluating my evidence. The field office director failed to timely contact and diligently corroborate my evidence and witnesses. . . .

Counsel also stated he would submit a brief within 30 days after processing of the applicant's FOIA request. The record reveals that the applicant's FOIA request, number [REDACTED] was processed on September 17, 2012. Counsel has not submitted a brief on appeal. On appeal, the applicant has not submitted any further evidence. Without documentary evidence to support the claim, the assertions of counsel will not satisfy the applicant'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).

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, nor has he presented additional evidence relevant to the grounds for termination. The appeal must therefore be summarily dismissed.¹

¹Beyond the decision of the director, the AAO notes that the record contains inconsistencies regarding the dates of the applicant's employment in the United States during the requisite period, as well as the dates of her absences from the United States during that period. In the instant I-687 application, the applicant lists employment in the United States from 1981 through the end of the requisite period as a self-employed babysitter, and one absence from the United States during that period, from December 1987 to January 1988. In the initial undated, unsigned I-687 application, filed by the applicant to establish her CSS class membership, the applicant indicated she was self-employed as a [REDACTED] from 1987 through the end of the requisite period. In addition, witness [REDACTED] states the applicant told him she was absent from the United States from June to July 1987, and witnesses

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

state that in July 1987 the applicant was front-desked due to travel outside of the United States between May and July 1987. In a Form I-485, application to adjust to permanent resident status under the Legal Immigration Family Equity (LIFE) Act, filed by the applicant in 2003, she listed her date of last arrival to the United States as October 12, 1987. However, in the instant I-687 application, and at the time of her interview on October 12, 2006, the applicant failed to list any absences from the United States either between May and July 1987 or in October 1987. These inconsistencies undermine the credibility of the applicant's claim of entry into the United States prior to January 1, 1982 and continuous residence in the United States during the requisite period.