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

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[redacted]

Date: OCT 1 0 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 3, 2007. On April 17, 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.

On appeal, counsel submits a brief. Counsel asserts that the evidence which the applicant previously submitted establishes by a preponderance of the evidence that he continuously resided in the United States in an unlawful status for the duration of the requisite period. Counsel states that any inconsistencies in the applicant's testimony regarding specific locations where he lived and worked in the United States during the requisite period, as well as the dates of his absences from the United States during that period, are the result of poor memory due to the passage of time. The applicant has not submitted any further evidence on appeal.[1] 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 dates he resided and worked at particular locations in the United States during the requisite statutory period, as well as inconsistencies in 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.[2]

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[1] The applicant's statement submitted on appeal has previously been submitted into the record. In addition, counsel has submitted a statement from a witness who states his knowledge that the applicant resided on Q Street since 1995. However, because evidence of residence after May 4, 1988 is not probative of residence during the requisite period, this additional document shall not be discussed.

[2] The record reveals that the applicant was deported to Mexico from the United States at government expense on August 10, 1976, and that he re-entered sometime thereafter. The applicant is therefore inadmissible to the United States based upon section 212(a)(9)(A)(ii) of the Immigration and Nationality Act (INA), as amended. The record reflects the

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

applicant filed a Form I-690, application for waiver of grounds of inadmissibility, pursuant to sections 212(a)(9)(C)(i)(I) or (II) of the Act, 8 U.S.C. § 1182(a)(9)(C)(i)(I) or (II). The director administratively closed the waiver application on April 27, 2012, after terminating the applicant's status as a temporary resident.