



U.S. Citizenship
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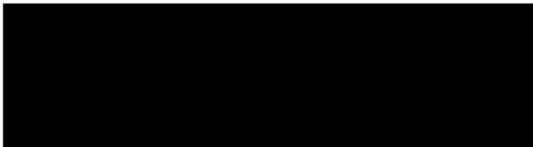
Office: CHICAGO

Date: AUG 28 2007

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:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has been returned to the office that originally decided your case. If your appeal was sustained, or if your case was remanded for further action, you will be contacted. If your appeal was dismissed, 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.

Robert P. Wiemann, 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 District Director, Chicago, Illinois, and is now before the Administrative Appeals Office (AAO) on appeal. The matter will be remanded for further action on the issue of the denial of class membership.

The district director concluded that the applicant had not established that she was eligible for class membership pursuant to the CSS/Newman Settlement Agreements. The district director also noted that the applicant stated during her legalization interview that she entered the United States in 1981 with her uncle and resided in this country until 1985, at which time she returned to her home country, Nigeria, to live until her return to the United States in 1998. Therefore, the district director determined that the applicant was not eligible to adjust to temporary resident status pursuant to the terms of the CSS/Newman Settlement Agreements and denied the application.

On appeal, counsel contends that the applicant's Form I-687 was prepared for her by [REDACTED], an individual who falsely identified himself to her as an attorney. Counsel states, "[t]he application process was mishandled by the supposed 'Attorney' [REDACTED] with a lot of misrepresentations, distortions of facts and material omissions in the information he submitted."

Paragraph 7, page 4 of the CSS Settlement Agreement and paragraph 7, page 7 of the Newman Settlement Agreement both state in pertinent part:

Before denying an application for class membership, the Defendants shall forward the applicant or his or her representative a notice of intended denial explaining the perceived deficiency in the applicant's Class Member Application and providing the applicant thirty (30) days to submit additional written evidence or information to remedy the perceived deficiency.

A review of the record reveals that the district director failed to issue a notice of intent to deny to the applicant explaining the perceived deficiency in the applicant's Class Member Application and providing the applicant 30 days to submit additional written evidence or information to remedy the perceived deficiency prior to denying the application.

Accordingly, the decision of the district director is withdrawn. The case will be remanded for reconsideration by the district director. If the district director finds that the alien is ineligible for class membership, the district director must first issue a notice of intent to deny, which explains any perceived deficiency in the applicant's Class Member Application and provides the applicant 30 days to submit additional written evidence or information to remedy the perceived deficiency. Once the alien has had an opportunity to respond to any such notice, if the applicant has not overcome the district director's finding then the district director must issue a new decision regarding the applicant's eligibility for class membership to both counsel and the applicant. Any

new adverse decision and still pending appeal shall be forwarded to the Special Master as designated in paragraph 9, page 5 of the CSS Settlement Agreement and paragraph 9, pages 7 and 8 of the Newman Settlement Agreement for review and adjudication of the applicant's appeal as it relates to his eligibility for class membership.

If the district director determines that the alien has established class membership or if the applicant's appeal is sustained by the Special Master with respect to the issue of her class membership, the district director shall forward the matter to the AAO for the adjudication of her appeal as it relates to the issue of her continuous residence in the United States in an unlawful status since before January 1, 1982 through May 4, 1988.

ORDER: This matter is remanded for further action and consideration pursuant to the above.