

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



41

FILE: [REDACTED] Office: NEW YORK Date: JUL 31 2007
MSC-05-218-12626

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: Self-represented

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have 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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: On May 6, 2005, the applicant filed an application for status as a temporary resident pursuant to section 245A of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1255a, under 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). The denial of the application for status as a temporary resident by the District Director, New York, is before the Administrative Appeals Office on appeal. The appeal will be rejected.

An adverse decision regarding temporary resident status may be appealed to the Administrative Appeals Office. Any appeal with the required fee shall be filed with the Regional Processing Facility within thirty (30) days after the date of the denial notice. An appeal received after the thirty-day period has tolled will not be accepted. 8 C.F.R. § 245a.2(p). Whenever a person has the right or is required to do some act within a prescribed period after the service of notice upon him and the notice is served by mail, three days shall be added to the prescribed period. Service by mail is complete upon mailing. 8 C.F.R. § 103.5a(b).

The director issued the denial notice on December 20, 2005, and mailed it to the applicant's address of record. The denial notice contains clear instructions on the mailing address for the applicant's Form I-694, Notice of Appeal. The mailing address instructions indicate that the Notice of Appeal should be submitted via United States Postal Service to the U.S. Citizenship and Immigration Services, P.O. Box 805876, Chicago, IL 60680-4120. The applicant instead mailed the Notice of Appeal to US CIS, P.O. Box 2076, New York, NY 10013.

Every application, petition, appeal, motion, request, or other document submitted on the form prescribed by this chapter shall be executed and filed in accordance with the instructions on the form, such instructions (including where an application or petition should be filed) being hereby incorporated into the particular section of the regulations in this chapter requiring its submission. 8 C.F.R. § 103.2(a)(1). Because of the applicant failed to file her appeal in accordance with the instructions on the form, the Notice of Appeal was not received until May 8, 2006, which is 139 days after the date indicated on the denial notice. Therefore, the appeal was untimely filed, and must be rejected.

ORDER: The appeal is rejected as untimely filed.