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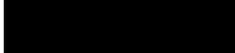
U.S. Citizenship  
and Immigration  
Services

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FILE:



Office: NEW YORK

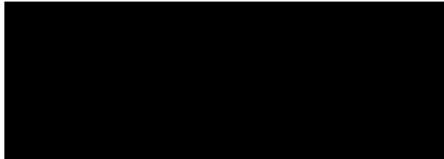
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IN RE:

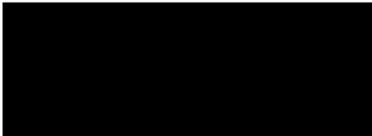
Applicant:



APPLICATION:

Application for Temporary Resident Status under 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. 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.

  
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, New York, New York. The decision is now before the Administrative Appeals Office on appeal. The appeal will be rejected.

The director determined the applicant had not demonstrated that he had continuously resided in the United States in an unlawful status since before January 1, 1982 through the date that he attempted to file a Form I-687, Application for Status as a Temporary Resident, with the Immigration and Naturalization Service or the Service (now Citizenship and Immigration Services or CIS) in the original legalization application period of May 5, 1987 to May 4, 1988. Therefore, the 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. The director specifically pointed to the applicant's failure to reconcile various discrepancies with regard to his entry into and unlawful residence within the United States during the requisite time period.

An adverse decision on an application for temporary resident status may be appealed to the Administrative Appeals Office. Any appeal with the required fee shall be filed with the Service Center within thirty (30) days after service of the notice of denial. 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). An appeal received after the thirty-day period has tolled will not be accepted. See 8 C.F.R. § 245a.2(p).

The director issued the notice of denial on November 7, 2005 and mailed it to the applicant's address of record. The appeal was received on December 28, 2005, or 51 days after the notice of denial was issued. Therefore, the appeal was untimely filed, and must be rejected.

Additionally, even if the applicant had submitted a timely appeal, it would have been summarily dismissed. 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.

In the present matter, counsel briefly reasserts a claim made previously in response to the director's adverse findings, but fails to provide any corroborating evidence to substantiate the explanation provided for the considerable discrepancies previously cited.

A review of the decision reveals that the director accurately set forth a legitimate basis for denial of the application. On appeal, additional evidence has not been presented. Nor has counsel properly addressed the grounds stated for denial. Therefore, the applicant's appeal would be deemed frivolous even if timely filed.

Regardless, the applicant did not, in fact, file a timely appeal. As such, the appeal will be rejected due to its untimely filing.

**ORDER:** The appeal is rejected.