

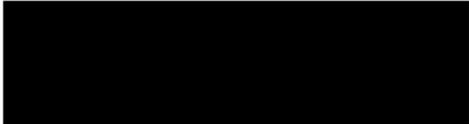
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FILE: [REDACTED]
MSC-05-200-11373

Office: NEW YORK

Date: NOV 23 2007

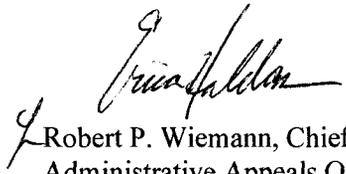
IN RE: Applicant: [REDACTED]

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: SELF-REPRESENTED

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, New York, and that decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The director determined the applicant had not demonstrated that she had continuously resided in the United States in an unlawful status since before January 1, 1982 through the date that she 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. Specifically, in her Notice of Intent to Deny (NOID), the director stated that the affidavits submitted by the applicant in support of her application did not prove by a preponderance of the evidence that she was eligible to adjust status to that of a Temporary Resident as the director found that these affidavits were not credible nor were they amenable to verification. The director granted the applicant thirty (30) days within which to submit additional evidence in support of her application. Though the director noted that her office did receive additional evidence in support of the application in response to her NOID, she found that it was not sufficient to overcome her reasons for denial. 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.

On appeal, the applicant asserts that she has lived in the United States for the duration of the requisite period. She submits attestations from additional people in support of her application as well as a statement and photographs not previously submitted.

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 Service Center within thirty (30) days after service of the notice of denial. An appeal received after the thirty-day period has tolled will not be accepted. *See* 8 C.F.R. § 245a.2(p). Pursuant to 8 C.F.R. § 103.5a(b), 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. If the last day of the period so computed falls on a Saturday, Sunday or a legal holiday, the period shall run until the end of the next day which is not a Saturday, Sunday, nor a legal holiday. 8 C.F.R. § 1.1(h).

The director issued her decision on May 19, 2006, and mailed it to the applicant's address of record. It is noted that the director's decision indicates that the applicant may appeal her decision by sending a Form I-694 Notice of Appeal of Decision to Chicago within thirty (30) days of her Notice of Decision. The record shows that the applicant incorrectly sent her Form I-694 to the New York District Office, rather than to the address that the director's Notice of Decision indicated she should send it to, which delayed its receipt. Therefore, the applicant's

appeal was not received in Chicago until July 12, 2006, fifty-four (54) days after the director issued his decision. As the appeal was untimely filed, it must be rejected.

ORDER: The appeal is rejected.