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FILE: [REDACTED] Office: LOS ANGELES Date: **NOV 28 2007**
MSC 05 012 22069

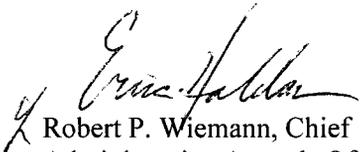
IN RE: Applicant: [REDACTED]

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. Any further inquiry must be made to that office.


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, Los Angeles, California, and 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 (CIS) in the original legalization application period of May 5, 1987 to May 4, 1988. This decision was based on the applicant's claim to have first entered the United States in May 1985 on his previously filed Form I-700 application. 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.

An adverse decision on an application for temporary resident status may be appealed to the Administrative Appeals Office. Any appeal shall be submitted to the Service Center with the required fee 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). Whenever a person has the right or is required to do some act within a prescribed period after the service of a 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 a Notice of Denial on November 25, 2005, and mailed it to the applicant at his address of record. The envelope containing the appeal was postmarked January 2, 2006. The appeal was initially received on January 5, 2006; however, it was returned to the applicant due to incorrect form of payment. The appeal with the correct form of payment was received by CIS on March 3, 2006, 98 days after the decision was issued. Accordingly, the appeal was untimely filed, and must be rejected.

Assuming, *arguendo*, the appeal was received with the appropriate form of payment on January 5, 2006, the appeal would still be rejected as untimely filed as it was received 41 days after the decision was issued.

ORDER: The appeal is rejected.