



U.S. Citizenship  
and Immigration  
Services

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FILE:



Office: FRESNO

Date: OCT 19 2007

MSC 06 060 12534

IN RE:

Applicant:



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, San Francisco, California, and is now before the Administrative Appeals Office (AAO) on appeal. This matter will be remanded for further action and consideration.

The district director denied the application based upon the conclusion that the applicant had not established that he was eligible for class membership pursuant to the CSS/Newman Settlement Agreements.

On appeal, the applicant reiterates that there was a misunderstanding between he and the interviewing officer at the time of his interview regarding if he had ever been denied the opportunity to file a Form I-687 application.

Paragraph 9.B, page 5 of the CSS Settlement Agreement and paragraph 9.B, pages 7 and 8 of the Newman Settlement Agreement both state in pertinent part:

Review of Decisions Involving Determination of Class Membership. Any decisions by defendants denying an application for subclass membership may be appealed to a Special Master. Any such appeal must be post-marked within thirty (30) days of the date of mailing of the notice denying the application for class membership. The Special Master's review shall be based on the documents and other evidence submitted by the applicant, and any documentary evidence relied upon by defendants in reaching the decision to deny the application for class membership.

A review of the record reveals that the district director instructed the applicant to appeal the decision denying his application for class membership to the AAO, rather than the Special Master. Accordingly, the decision of the district director is withdrawn and the case will be remanded for reconsideration by the district director. If the district director finds that the applicant is ineligible for class membership, the director must first issue a new notice of intent to deny, which explains any perceived deficiency in the applicant's Class Member Application and provides the applicant thirty days to submit additional written evidence or information to remedy the perceived deficiency. If the applicant has not overcome the district director's finding after having the opportunity to respond to the notice of intent to deny, then the district director must issue a new decision to the applicant regarding his eligibility for class membership. Any new adverse decision and still pending appeal shall be forwarded to the Special Master as designated in paragraph 9.B, page 5 of the CSS Settlement Agreement and paragraph 9.B, 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 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 his class membership, the district director shall continue the adjudication of his application as it relates to the issue of his 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.