



U.S. Citizenship
and Immigration
Services

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OCT 23 2007
Date:

[Redacted]

FILE: [Redacted]
MSC-06-185-22101

Office: LOS ANGELES

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 was denied by the Director, Los Angeles District Office, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application because she found the applicant had not filed her Form I-687 timely. In saying this, she noted that the applicant's Form I-687 filed with the proper fee was postmarked on January 18, 2006. Under the CSS/Newman (LULAC) Settlement Agreements applications are deemed filed on their postmarked dates. *See both CSS page four (4) paragraph four (4) and LULAC (Newman) Settlement Agreement page five (5) paragraph four (4).* However, the CSS/Newman filing period ended on December 31, 2005. Therefore, this applicant filed after the date that the CSS/Newman filing period ended. The regulation at 8 C.F.R. § 245a.2(a)(2)(iv) states that applicants who fail to file an application for adjustment of status to that of a temporary resident under section 245A(a) of the Act during the respective time period(s) will be statutorily ineligible for such adjustment of status.

On appeal, the applicant states she initially filed her Form I-687 timely but with the incorrect fee. It is noted here that the record shows that the Service received the applicant's Form I-687 on January 10, 2006 and rejected it at that time because she had not submitted the correct fee with her application. It is not clear when her initial submission of her I-687 was postmarked. However, she asks that she be allowed to continue to pursue her application for adjustment to Temporary Resident Status.

It is noted here that an application or petition is not considered properly filed until accepted by USCIS. Here, the applicant's Form I-687 was not properly filed until after the filing deadline. As such, the applicant is statutorily ineligible to adjust status to that of a Temporary Resident.

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.

A review of the decision reveals the director accurately set forth a legitimate basis for denial of the application. On appeal, the applicant has not presented additional evidence proving that she filed timely. The appeal must therefore be summarily dismissed.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.