

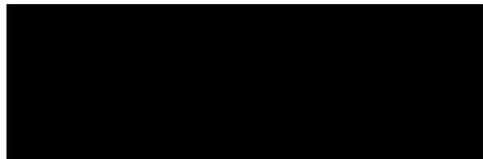
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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



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FILE:

MSC 05 145 10756

Office: NEW YORK

Date:

SEP 20 2007

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:

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. 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.

A handwritten signature in black ink, appearing to be "R. P. Wiemann".

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

The director denied the application based on the determination that the applicant failed to respond to the previously issued notice of intent to deny, which cited the grounds for the intended denial.

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 January 9, 2006 and mailed it to the applicant's address of record. The appeal was initially received on February 7, 2006 with either a missing or incorrect filing fee. Accordingly, Citizenship and Immigration Services returned the applicant's Form I-694 along with a notice informing the applicant of the deficiency. Although the applicant resubmitted the appeal with the correct filing fee, the appeal was received on February 22, 2006, or 44 days after the notice of denial was issued. Therefore, the appeal was untimely filed, and must be rejected.

ORDER: The appeal is rejected.