

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

41

FILE:

MSC-05-319-11743

Office: NEW YORK

Date:

APR 17 2008

IN RE:

Applicant:

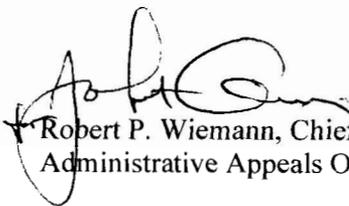
APPLICATION:

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:

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits Center. 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. If your appeal was sustained or remanded for further action, you will be contacted.


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 (AAO) on appeal. The appeal will be dismissed.

The director denied the application because she found the evidence submitted with the application was insufficient to establish eligibility for Temporary Resident Status pursuant to the terms of the CSS/Newman Settlement Agreements. Specifically, in her Notice of Intent to Deny (NOID), issued June 13, 2006, the director noted that the applicant submitted affidavits in support of his application. However, the director went on to say that these affidavits were not credible nor were they amenable to verification. She stated that the telephone numbers provided for the affiants were disconnected. She went on to say that the affidavits were not submitted with proof that the affiants had direct personal knowledge of the events and circumstances of the applicant's residency. The director afforded the applicant thirty (30) days within which to submit additional evidence in support of his application. It is noted here that the director's NOID was mailed to the applicant's address of record but was returned to Citizenship and Immigration Services as undeliverable. As the applicant did not submit additional evidence in response to the director's NOID, he did not overcome her reasons for denial as stated in that NOID. Therefore, she denied the application.

On appeal, the applicant, through his attorney, states that the applicant did not receive the Services NOID. Therefore, he argues that the applicant was not given official notification that the Service was intending to deny his application. However, here, it is noted that the director was not required to issue a Notice of Intent to Deny (NOID) to the applicant. Rather, pursuant to paragraph 7, page 4 of the CSS Settlement Agreement and paragraph 7, page 7 of the Newman Settlement Agreement, the director shall issue a NOID before denying an application for class membership. Here, the director adjudicated the Form I-687 application on the merits. As a result, the director is found not to have denied the application for class membership. Therefore, the director was not required to issue a NOID prior to issuing the final decision in this case. Here, the applicant failed to provide additional evidence or explanation to overcome the reasons for denial of his application.

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. Nor has he addressed the grounds stated for denial. The appeal must therefore be summarily dismissed.

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