



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
MSC-05-194-15773

Office: FRESNO

Date: **AUG 20 2008**

IN RE: Applicant: [REDACTED]

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. 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.

A handwritten signature in black ink, appearing to read "Robert 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 Director, Fresno Field Office. The decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The director determined that the applicant is statutorily ineligible to adjust status as a temporary resident under section 245A of the Immigration and Nationality Act (Act).

On appeal, [REDACTED] submitted on behalf of the applicant a Form I-694, Notice of Appeal of Decision Under Section 210 or 245A of the Act.

An applicant for temporary resident status may appeal an adverse decision on Form I-694. 8 C.F.R. § 245a.2(o). The applicant may be represented by an attorney or representative in accordance with 8 C.F.R. § 292. 8 C.F.R. § 103.3(a)(1)(iii)(B). The person acting in a representative capacity must be “authorized and qualified to represent,” and a notice of appearance must be signed by the applicant to authorize representation in order for the appearance to be recognized by the U.S. Citizenship and Immigration Services. 8 C.F.R. § 292.4.

The regulations provide that every application, petition, appeal, motion, request, or other document submitted on the form prescribed by the Department of Homeland Security regulations shall be executed and filed in accordance with the instructions on the form; and the instructions are incorporated into the particular section of the regulations requiring its submission. 8 C.F.R. § 103.2(a)(1). Form I-694 includes the following instruction:

Any Form I-694 that is not signed or accompanied by the correct fee will be rejected with a notice that the Form I-694 is deficient. [An applicant] may correct the deficiency and resubmit the Form I-694.¹

In this case the Form I-694 is not signed by the applicant, but rather by [REDACTED], who identifies himself as the applicant’s representative. There is no Form G-28, Notice of Entry of Appearance as Attorney or Representative, in the file, however, to indicate that [REDACTED] is an attorney or representative who is authorized to represent the applicant. On July 28, 2008, the AAO sent a letter to [REDACTED] requesting that he [REDACTED] a copy of his Form G-28. [REDACTED] was afforded 10 days to respond to this request. As of the date of this decision, [REDACTED] has not provided the AAO with his Form G-28. Since the appeal has not been signed and filed by the applicant or by any authorized representative, the appeal is deficient and has not been properly filed. The appeal, therefore, must be rejected.

ORDER: The appeal is rejected.

¹ Note, however, that a rejected application or petition will not retain a filing date. 8 C.F.R. § 103.2(a)(7). As Form I-694 must be filed within 30 days of the notice of decision, it would not be possible to timely resubmit the Form I-694 in this case.