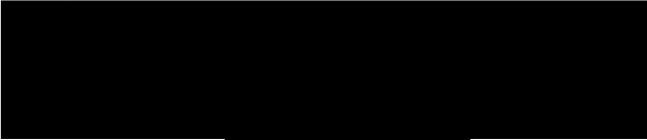


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prevent clearly unwarranted
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U.S. Citizenship
and Immigration
Services

PUBLIC COPY



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FILE:

MSC-05-343-11734

Office: NATIONAL BENEFITS CENTER

Date:

FEB 06 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. 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 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, National Benefits Center. The decision was appealed to the Administrative Appeals Office (AAO). The AAO rejected the appeal on November 1, 2007, finding that the appeal had been untimely filed. The applicant, through counsel, has now submitted a certified mail receipt proving that the appeal had been timely filed and requesting that the AAO reopen and reconsider its decision. In response, the AAO has sua sponte reopened the decision.¹ The AAO's decision of November 1, 2007 will be withdrawn. The AAO issued a prior decision in this case on October 31, 2007, summarily dismissing the appeal.² The decision of October 31, 2007 will be affirmed.

A copy of the October 31, 2007 decision is attached. As per the footnote on page two of that decision, it was issued before receipt of the attorney's Notice of Entry of Appearance as Attorney or Representative (Form G-28) was received by the AAO. For that reason, the AAO mailed the decision only to the applicant.

ORDER: The AAO decision of November 1, 2007 is withdrawn. The AAO decision of October 31, 2007 is affirmed. This decision constitutes a final notice of ineligibility.

¹ Motions to reopen or reconsider a decision on an application for temporary residence are not permitted. 8 C.F.R. § 245a.2(q). The AAO may, however, sua sponte reopen any proceeding conducted by the AAO under 8 C.F.R. § 245a and reconsider any decision rendered in such proceeding. 8 C.F.R. § 103.5(b).

² The AAO failed to recognize that the case had been decided on October 31, 2007, and inadvertently issued the second decision, dated November 1, 2007.