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FILE: [REDACTED]  
MSC-05-292-13628

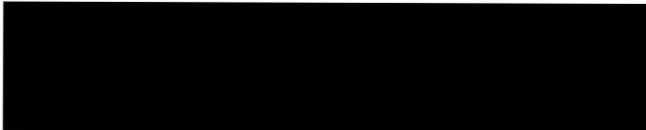
Office: CHICAGO

Date: JAN 02 2008

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:



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.

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

The director determined the applicant had not demonstrated that he had continuously resided in the United States in an unlawful status since before January 1, 1982 through the date that he attempted to file a Form I-687, Application for Status as a Temporary Resident, with the Immigration and Naturalization Service or the Service (now Citizenship and Immigration Services or CIS) by a preponderance of the evidence. Specifically, the acting director noted in his Notice of Decision that when the daughter-in-law of an affiant was contacted by a CIS officer on May 11, 2006, she indicated that her family had known the applicant for approximately twelve (12) to thirteen (13) years at that time. The CIS officer determined that this statement cast doubt on an affidavit submitted by that individual's father-in-law in which he stated he had known the applicant since 1986. Because of this discrepancy, the director found the applicant was ineligible to adjust status to that of a Temporary Resident and denied the application.

An adverse decision regarding 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. An appeal received after the thirty-day period has tolled will not be accepted. See 8 C.F.R. § 245a.2(p). Pursuant to 8 C.F.R. § 103.5a(b), 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. If the last day of the period so computed falls on a Saturday, Sunday or a legal holiday, the period shall run until the end of the next day which is not a Saturday, Sunday, nor a legal holiday. 8 C.F.R. § 1.1(h).

The director issued his decision on May 16, 2006, and mailed it to the applicant's address of record. The applicant's appeal was first received Tuesday, June 20, 2006, thirty-five (35) days after the notice of decision was issued. The record shows that the applicant's Form I-694 Notice of Appeal of Decision was rejected on June 20, 2006 because it was submitted without a receipt number. As applicants are not required to provide their receipt number on their Forms I-694, the AAO finds that this rejection was made in error. However, as the appeal was untimely filed upon its first submission, it must be rejected.

It is noted that new evidence submitted with the applicant's appeal reveals that the daughter-in-law of affiant [REDACTED], did not marry into that family until 1990, four (4) years after [REDACTED] asserted in his affidavit that he met the applicant. Therefore, as [REDACTED] was not a part of [REDACTED] family during the requisite period and as the applicant did not submit evidence from [REDACTED], her testimony carries no weight in verifying the information in the affidavit from her father-in-law.

**ORDER:** The appeal is rejected.