

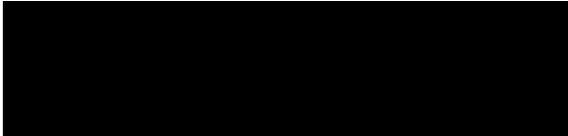
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Services

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FILE: Office: (BOSTON) PROVIDENCE Date: JUL 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. 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.

for *Michael F. Kelly*
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, Providence, Rhode Island. The decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected, as the record indicates that no application for temporary resident status under section 245A was timely filed.

The applicant's administrative record includes evidence showing that the applicant submitted two Forms I-687, "Application for Status as a Temporary Resident (Under Section 245A of the Immigration and Nationality Act)," on September 28, 1989 and again on or about July 26, 1990. The record also includes a Form I-485, Application to Register Permanent Resident or Adjust Status, pursuant to section 1104 of the LIFE Act (I-485 LIFE Legalization Application), which was filed on November 13, 2001.

In a July 13, 2006 Notice of Intent to Deny (NOID) the application, the director observed that a March 30, 2006 NOID detailing the deficiencies of the record had been sent to the applicant in regards to his Form I-485 application, that a response had been received, but that the director had determined that the response was insufficient to overcome the deficiencies in the record regarding the applicant's eligibility, as the applicant had not addressed the deficiencies in the record. Thus the director denied the applications for temporary resident status under section 245A in a September 20, 2006 decision.

The record indicates that the director may have erroneously concluded that the applicant had applied for temporary resident status, either pursuant to the terms of the *CSS V. Meese* [*Catholic Social Services* or *CSS lawsuit, later renamed CSS v. Thornburg*], or Newman [*League of United Latin American Citizens (LULAC) v. INS*] Settlement Agreements or otherwise.¹ However, neither the Form I-687, dated September 28, 1989 nor the Form I-687 dated on or about July 26, 1990, is timely filed. A timely filed application under section 245A of the Act, is filed during the one-year filing period from May 5, 1987 to May 4, 1988 (see section 245A(a)(1)(A) of the Act; 8 C.F.R. § 245a.2(a)); and a timely filed application pursuant to the CSS/Newman Settlement Agreements, which permits late submissions under section 245A of the Act, is filed during the period from May 24, 2004 through December 31, 2005.

Both Forms I-687 in the record were adjudicated and denied by the director as if they had been properly filed applications for temporary resident status. As the record does not contain a properly filed application for temporary resident status, the director's adjudication of the forms I-687 was done in error. Despite the director's instructions to the applicant that the decision could be appealed to the AAO, the

¹ When the applicant submitted the Forms I-687 in 1989 and 1990, two class action lawsuits were pending: (*Catholic Social Service, Inc. (CSS) v. Thornburgh*, No. CIV- S-86-1343-LKK (E.D. Cal. Filed November 12, 1986) and *League of United Latin American Citizens (LULAC) v. INS*, Cv. No. 87-04757 WDK (JRx) (C.D. Cal. Filed July 22, 1987). Pending final resolution of the cases, individuals who thought they qualified as class members could submit an application for class membership along with a "skeletal" Form I-687; if approved for class membership at that time, they were issued employment authorization.

AAO finds that neither the adjudication nor an appeal is available to the applicant under Section 245A of the Act. The appeal will therefore be rejected.

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