

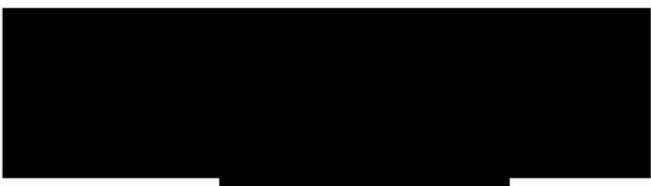
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U.S. Citizenship and Immigration Services

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FILE: MSC-06-073-12897

Office: HOUSTON

Date: JUL 08 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.

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, Houston. The decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant submitted a Form I-687, Application for Status as a Temporary Resident Under Section 245A of the Immigration and Nationality Act (Act), and a Form I-687 Supplement, CSS/Newman Class Membership Worksheet, on December 12, 2005. The director denied the application, finding that the applicant failed to appear for a scheduled interview on October 18, 2006.

The applicant, through counsel, argues that his failure to appear for the interview was due to error by U.S. Citizenship and Immigration Services (CIS) in failing to send notice of the interview to the applicant's correct address of record. The evidence of record indicates that counsel of record filed a Notice of Entry of Appearance (Form G-28) and a change of address form for the applicant on July 17, 2006, which was received by CIS on July 25, 2006. The record also reflects that the Appointment for Form I-687 Interview notice, dated October 10, 2006, was sent to the applicant's prior address. However, the AAO also notes that an Appointment for Form I-687 Interview notice was mailed to the applicant's counsel of record. The record before the AAO reflects that an Appointment for Form I-687 Interview, dated October 10, 2006, was mailed to the Manual Solis Law Firm, at 6657 Navigation Boulevard, Houston, informing counsel that the applicant was scheduled to appear for an interview on October 18, 2006.

Federal regulations provide that service by mail upon counsel of record is adequate notice for purposes of adjudicating applications for immigration benefits. 8 C.F.R. § 103.5a. The applicant failed to appear for a scheduled interview. Consequently, on October 19, 2006, CIS denied the application for temporary residence, and mailed the Notice of Denial to the applicant's counsel of record.

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