



U.S. Citizenship
and Immigration
Services

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FILE:

[REDACTED]

Office: CHARLOTTE

Date:

JUL 22 2008

MSC-06-097-10553

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:

[REDACTED]

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

The director denied the application because she found the evidence submitted with the application was insufficient to establish eligibility for Temporary Resident Status pursuant to the terms of the CSS/Newman settlement agreements. Specifically, the director noted that the applicant had submitted five affidavits in support of his claim of continuous residency in the United States for the duration of the requisite period. The director noted several inconsistencies in these affidavits and determined that the evidence submitted did not establish, by a preponderance of the evidence, that the applicant had resided continuously in the United States for the duration of the requisite period.

On appeal, counsel for the applicant asserts “[t]he service made an error in law by denying the I-687 application without issuing an intent to deny . . . the regulations also require that the appeal should be taken up with the special master.”

Counsel’s assertions are without merit. According to the CSS/Newman settlement agreements, before denying an application for class membership, Citizenship and Immigration Services (CIS) must forward the applicant or his representative a Notice of Intended Denial (NOID) explaining the perceived deficiency in the applicant’s Class Member application and provide the applicant thirty (30) days to submit additional written evidence of information to remedy the perceived deficiency. *See* CSS Settlement Agreement paragraph 7, Page 4; Newman Settlement Agreement paragraph 7, Page 7.

Here, however, the director did not deny the application for class membership. Instead, the director, based on the applicant’s class membership, adjudicated the application for temporary residence on the merits. As the director did not deny the applicant the benefit of class membership, the director was not required to issue a NOID prior to issuing the final decision in this case.

As stated in 8 C.F.R. § 103.3(a)(3)(iv), any appeal which is filed that fails to state the reason for appeal, or is patently frivolous, will be summarily dismissed.

A review of the decision reveals the director accurately set forth a legitimate basis for denial of the application. On appeal, the applicant has not presented additional evidence. Nor has he addressed the grounds stated for denial. The appeal must therefore be summarily dismissed.

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