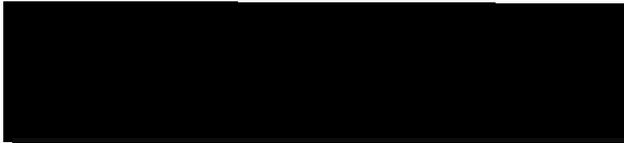


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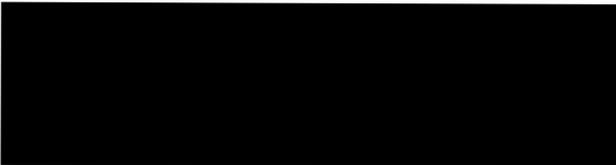
Applicant:



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. 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.

A handwritten signature in black ink, appearing to read "Robert P. 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 District Director, New York. The decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily 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 May 19, 2005 (together, the I-687 Application). The director determined that the applicant had not established by a preponderance of the evidence that he had continuously resided in the United States in an unlawful status for the duration of the requisite period, specifically noting that the applicant failed to submit evidence in response to the director's notice of intent to deny (NOID) and that the NOID was returned to the director by the U.S. Postal Service. The director denied the application as the applicant had not met his burden of proof and was, therefore, not eligible to adjust to temporary resident status pursuant to the terms of the CSS/Newman Settlement Agreements.

On appeal, counsel submits a timely Form I-694 Notice of Appeal of Decision Under Section 210 or 245A and a brief. On the Form I-694, the applicant states that the director's decision does not provide a reason as to why the applicant's response to the NOID "was not considered favorably." Counsel also states that the documentation submitted "warranted further consideration." As of this date, the AAO has not received any additional evidence from counsel or the applicant. Therefore, the record is complete.

It appears that counsel has misunderstood the director's decision. The decision states that the NOID was returned to the director by the U. S. Postal Service and that the applicant did not provide a response to the NOID. The record of proceeding contains the envelope with the U. S. Postal Service's "return to sender" stamp. The AAO notes that the director addressed the NOID to the applicant's address of record. The director also sent her decision to the same address. The applicant received the director's decision at the address of record and filed the instant appeal through counsel.

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

A review of the decision reveals that the director accurately set forth a legitimate basis for denial of the application. On appeal, counsel has not presented any evidence. Counsel fails to specify how the director made any erroneous conclusion of law or statement of fact in denying the application. Nor has counsel specifically addressed the basis for denial. As the applicant presents no additional evidence on appeal to overcome the decision of the director, the appeal will be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(3)(iv).

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