

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



4

FILE: [Redacted]
MSC-05-355-13433

Office: BOSTON

Date: JUN 11 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:

SELF-REPRESENTED

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 Records 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.

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, Boston District Office, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The director denied the application because she found that the applicant failed to meet her burden of proof in establishing that she entered and maintained continuous unlawful residency in the United States during the requisite period.

The Notice of Appeal to the Administrative Appeals Office¹ submitted on behalf of the applicant was signed by ██████████ of Fall River Financial Solutions. The record does not contain a Form G-28 listing ██████████'s name and including the applicant's signature. USCIS has an obligation to ensure that only those attorneys and representatives who are eligible to practice before the agency are recognized in that manner.

It is noted that AAO sent a notice to Fall River Financial Solutions requesting that a copy of Form G-28 Notice of Entry of Appearance as Attorney or Representative, signed by the applicant and counsel, be submitted to the AAO within five business days. More than three weeks have passed since the notice was issued, and a signed Form G-28 has not been received by the AAO. The documents presented do not establish ██████████'s eligibility to appear either as an attorney or as an accredited representative of an organization recognized and accredited by the Board of Immigration Appeals as defined in 8 C.F.R. §§ 103.2 and 292.1(a)(4). The documents list no location in which ██████████ is admitted to the practice of law, nor is he listed on the most recent Roster of Recognized Organizations and Accredited Representatives maintained by the Executive Office for Immigration Review. The procedures for accreditation of organizations and representatives are set forth in 8 C.F.R. § 292.2. ██████████ failed to indicate that he is a law graduate representative pursuant to section 292.1(A)(2) of the Immigration and Nationality Act. According to the regulations at 8 C.F.R. § 292.1(a)(2)(iii), a law graduate may act as a representative if he has filed a statement that he is appearing under the supervision of a licensed attorney or accredited representative and that he is appearing without direct or indirect remuneration from the person that he represents. The record shows that ██████████ has not filed such a statement. Nor has he provided evidence of his eligibility to represent the applicant on some other authorized basis listed in 8 C.F.R. § 292.1. Since the record contains no evidence that ██████████ is eligible to represent the applicant, his representation will not be recognized by the AAO.

An applicant for temporary resident status may appeal an adverse decision on Form I-694. 8 C.F.R. § 45a.2(o). The regulations provide that every application, petition, appeal, motion, request, or other document submitted on the form prescribed by the Department of Homeland Security regulations shall be executed and filed in accordance with the instructions on the form; and the

¹ It is noted that the applicant erroneously submitted his appeal on Form I-290B instead of on Form I-694.

instructions are incorporated into the particular section of the regulations requiring its submission. 8 C.F.R. § 103.2(a)(1). Form I-694 includes the following instruction:

Any Form I-694 that is not signed or accompanied by the correct fee will be rejected with a notice that the Form I-694 is deficient. [An applicant] may correct the deficiency and resubmit the Form I-694.²

In this case, the Notice of Appeal submitted on March 24, 2006 was signed by _____ whose representation will not be recognized by the AAO. The applicant failed to sign the Notice of Appeal. As the appeal has not been signed and filed by the applicant or by any authorized representative, the appeal is deficient and has not been properly filed. The appeal, therefore, must be rejected.

ORDER: The appeal is rejected.

² Note, however, that a rejected application or petition will not retain a filing date. 8 C.F.R. § 103.2(a)(7). As Form I-694 must be filed within 30 days of the notice of decision, it would not be possible to timely resubmit the Form I-694 in this case, as more than two years have passed since the decision was issued.