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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:

MSC 05 334 11001

Office: NATIONAL BENEFITS CENTER

Date: MAR 07 2008

IN RE:

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:

SELF-REPRESENTED

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, National Benefits Center. **The decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.**

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. Upon review, the director issued a Notice of Intent to Deny (NOID) on November 17, 2005, finding 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. As a result of the applicant's failure to adequately respond to the NOID, the director denied the application, concluding that 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, an individual named [REDACTED] signed and submitted the Form I-694, Notice of Appeal of Decision Under Section 210 or 245A of the INA on behalf of the applicant. [REDACTED] also submitted a September 5, 2006 Notice of Entry of Appearance as Attorney or Representative (Form G-28), which indicates that he is a member in good standing with the Arizona bar.

An applicant for temporary resident status may appeal an adverse decision on Form I-694. 8 C.F.R. § 245a.2(o). The applicant may be represented by an attorney or representative in accordance with 8 C.F.R. § 292. 8 C.F.R. § 103.3(a)(1)(iii)(B). The person acting in a representative capacity must be "authorized and qualified to represent," and a notice of appearance must be signed by the applicant to authorize representation in order for the appearance to be recognized by the U.S. Citizenship and Immigration Services (CIS). 8 C.F.R. § 292.4.

The regulations further 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 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-694.¹

In this case and as indicated above, the Form I-694 was not signed by the applicant, but rather by [REDACTED] who identified himself as a member of the Arizona bar. The proper authorities in Arizona, however, indicated that [REDACTED] bar membership has been inactive since April 22, 2005. After numerous attempts to

¹ 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.

[REDACTED]

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call and fax [REDACTED], a letter was sent to him on October 10, 2007, requesting that evidence of his admission to the practice of law, including a certificate of good standing, be sent to the AAO within fifteen days. To date, there has been no response from [REDACTED]. As such, it cannot be found that [REDACTED] is an authorized attorney or representative pursuant to 8 C.F.R. § 292. 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 pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A)(1).

ORDER: The appeal is rejected.