

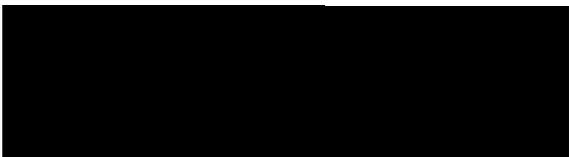
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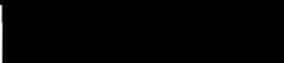
**U.S. Citizenship
and Immigration
Services**

PUBLIC COPY

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FILE:



MSC 05 004 10559

Office: NEW YORK

Date:

MAY 01 2008

IN RE:

Applicant:



APPLICATION:

Application for Temporary Resident Status under 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 Benefits [or 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 District Director, New York. The decision is now before the Administrative Appeals Office 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. 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. The director denied the application, finding 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.

An adverse decision on an application for temporary resident status may be appealed to the Administrative Appeals Office. 8 C.F.R. §§ 103.3(a)(3) and 245a.2(p). Any appeal with the required fee shall be filed with the Service Center within thirty (30) days after service of the notice of denial. *Id.* Whenever a person has the right or is required to do some act within a prescribed period after the service of notice upon him and the notice is served by mail, three days shall be added to the prescribed period. 8 C.F.R. § 103.5a(b). Service by mail is complete upon mailing. *Id.* An appeal received after the thirty-day period has tolled will not be accepted. *See* 8 C.F.R. § 245a.2(p).

The director issued the notice of denial on November 15, 2006 and mailed it to the applicant's address of record. The appeal was stamped with a receipt date of December 26, 2006, or 41 days after the notice of denial was issued.¹ Therefore, the appeal was untimely filed, and must be rejected.

Additionally, the appeal was filed on the applicant's behalf by [REDACTED] whose Form G-28 is on record. However, the Form G-28 submitted by [REDACTED] failed to list a location in which he was admitted to practice law, nor was [REDACTED] listed on the most recent Roster of Recognized Organizations and Accredited Representatives maintained by the Executive Office for Immigration Review. Accordingly, the AAO sent [REDACTED] a letter dated February 28, 2008 informing him of these deficiencies and allowing him the opportunity to submit proof of his authority to appear as an attorney or accredited representative as required pursuant to 8 C.F.R. § 292.4(a). [REDACTED] was allowed 15 days in which to respond to the AAO's notice. However, more than the allowed time period has lapsed and no response has been received as of the date of this decision. As such, the applicant's appeal was filed by a third party who has failed to establish his 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).

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. Therefore, on this additional basis, the appeal must be rejected pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A)(1).

¹ According to the tracking number assigned to the applicant's submissions by the United States Postal Service, the appeal was actually received on Friday, December 22, 2006, or 37 days after the notice of denial was issued. This further supports the conclusion that the appeal was untimely filed and must be rejected.



ORDER: The appeal is rejected.