



U.S. Citizenship  
and Immigration  
Services

**identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy**

**PUBLIC COPY**



41

FILE: [REDACTED]  
MSC-05-243-28858

Office: NEW YORK

Date: **MAY 22 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 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.

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 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, in her Notice of Intent to Deny (NOID), issued March 6, 2006, the director noted that the applicant failed to provide credible evidence in support of her claim of having resided continuously in the United States since before January 1, 1982 and then continuously in an unlawful status since her date of entry and until she was turned away by Immigration and Naturalization Services, now Citizenship and Immigration Services (CIS) or the Service, during the original legalization filing period. The director granted the applicant 30 days within which to submit additional evidence in support of her application. In her Notice of Decision, dated August 1, 2006, the director stated that although she sent her NOID to the applicant's address of record by certified mail, it was returned to the director as undeliverable. She further noted that the Service had not received a change of address form from the applicant.

On appeal, the applicant submits a statement in which she asserts that she did not receive the director's NOID. She notes that she previously submitted affidavits in support of her application. She failed to provide additional evidence or explanation to overcome the reasons for denial of her application.

It is noted that the director was not required to issue a Notice of Intent to Deny (NOID) pursuant to paragraph 7, page 4 of the CSS Settlement Agreement and paragraph 7, page 7 of the Newman Settlement Agreement. According to the settlement agreements, the director shall issue a NOID before denying an application for class membership. Here, the director adjudicated the Form I-687 application on the merits. As a result, the director is found not to have denied the application for class membership. Therefore, 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. The director's decision clearly states that her office did not find the applicant met her burden of proving by a preponderance of the evidence that she resided in the United States for the duration of the requisite period. In her appeal, the applicant did not address 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.