

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

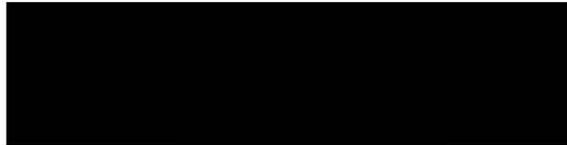
U.S. Department of Homeland Security
20 Massachusetts Ave., NW, Rm. 3000
Washington, DC 20529-2090
MAIL STOP 2090



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

41

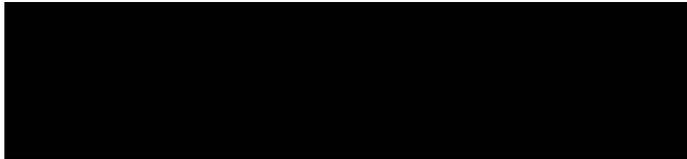


FILE: [REDACTED] Office: CHERRY HILL Date: NOV 12 2008
MSC-05-133-11712

IN RE: Applicant: [REDACTED]

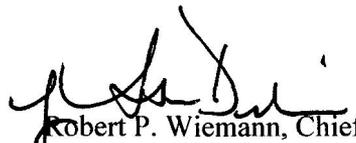
APPLICATION: Application for Status as a Temporary Resident pursuant to Section 245A of the
Immigration and Nationality Act, as amended, 8 U.S.C. § 1255a

ON BEHALF OF APPLICANT:



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, Cherry Hill. 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 February 10, 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 inconsistencies in the record of proceeding that were not adequately addressed by counsel in response to the director's May 31, 2005 notice of intent to deny (NOID). In addition, the director noted that the applicant was inadmissible to the United States pursuant to Section 212(a)(9)(B)(i)(II) of the Immigration and Nationality Act (INA). 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 submitted a timely Form I-694 Notice of Appeal of Decision Under Section 210 or 245A and did not submit any evidence on appeal. Counsel stated on the Form I-694 that the director "applied the wrong legal standard to analyze the facts in the applicant's case." Counsel also indicated on the Form I-694 that a brief and/or additional evidence would be submitted to the AAO within 30 days. On September 12, 2008, the AAO sent counsel a facsimile regarding the absence of the aforesaid appellate material. On September 18, 2008, counsel responded by facsimile and stated that the Form I-694 should have indicated that "no supplemental brief and/or evidence [would] be submitted." As of this date, the AAO has not received any additional evidence from counsel or the applicant. Therefore, the record is complete.

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, the applicant has not presented any new evidence of his entry into the United States or his continuous residence during the requisite period. On appeal, counsel has resubmitted his previous response to the director's NOID, but counsel has not addressed the director's decision which determined that statements in response to the NOID were not sufficient to meet the applicant's burden. The applicant fails to specify how the director made any erroneous conclusion of law or statement of fact in denying the application. Nor has he 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.