

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



41

FILE:



Office: LOS ANGELES

Date:

OCT 07 2008

MSC 04 307 11201

IN RE:

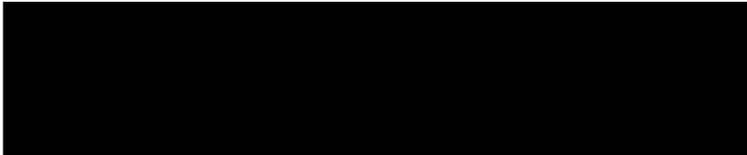
Applicant:



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:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has been returned to the National Benefits Center. If your appeal was sustained, or if the matter 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: On April 1, 2006, 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, or *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, Los Angeles. The case is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The district director denied the application, finding that the applicant had abandoned his application. Specifically, the director found that the applicant failed to respond to his request to provide documentation establishing his eligibility for Temporary Resident Status.

As stated in 8 C.F.R. § 103.2(b)(15), a denial due to abandonment may not be appealed. Since the denial in this case was based on the abandonment of the application, it may not be appealed. Therefore, the appeal will be rejected.¹

It is noted that, pursuant to 8 C.F.R. § 245a.2(9), the director may *sua sponte* reopen any adverse decision. Additionally, the director may certify any such decision to the AAO. *See* 8 C.F.R. § 245a.2(r).

ORDER: The appeal is rejected.

¹ On December 13, 2001, the applicant filed a Form I-485, and on August 2, 2004, he filed the current Form I-687, Application for Status as Temporary Resident. On April 5, 2004, the director issued a Notice of Intent to Deny the Form I-485, Application to Register Permanent Resident or Adjust Status. The applicant's former counsel responded, but with documents the director deemed insufficient to overcome the grounds of denial as stated in the NOID.

On November 23, 2005, the director issued two documents: a decision denying the Form I-485, and a Notice of Intent to Deny the Form I-687. The applicant had 30 days to appeal the denial of the Form I-485. He did not appeal the denial of the Form I-485.

On April 1, 2006, the director issued a decision denying the applicant's Form I-687 for abandonment. On April 6, 2006, the applicant submitted the current Form I-290B, Notice of Appeal to the AAO. Although this is the corresponding appeal form for the Form I-485, and the corresponding appeal form for the Form I-687 is the Form I-694, Notice of Appeal of Decision Under Sections 245A or 210 of the Immigration and Nationality Act, the AAO will treat this as an appealing the denial of the Form I-687, not from the denial of the Form I-485. If this were considered an appeal of the Form I-485, it would have to be rejected as untimely, pursuant to 8 C.F.R. § 245a.2(p).