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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

41



FILE:



MSC-06-098-19396

Office: SAN DIEGO

Date:

SEP 09 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 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.

A handwritten signature in black ink, appearing to be "Robert P. Wiemann".

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, San Diego. 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, and a Form I-687 Supplement, CSS/Newman Class Membership Worksheet. The director determined that the applicant failed to submit credible evidence of her residence in the United States for the requisite period. The director further determined that the applicant failed to appear for her interview, and did not submit a request to reschedule her interview appointment. The director concluded that on this basis the application would be denied.

On appeal, the applicant asserts that the documents she submitted are true and verifiable. The applicant requests her interview to be rescheduled.

If Citizenship and Immigration Services (CIS) requires an individual to appear for an interview, but the person does not appear, the application shall be considered abandoned and denied unless by the appointment time CIS has received a change of address or rescheduling request that the agency concludes warrants excusing the failure to appear. 8 C.F.R. § 103.2(b)(13)(ii). An individual to be interviewed may for good cause request that the interview be rescheduled. *See* 8 C.F.R. § 103.2(b)(9)(i).

In this case, the applicant failed to appear for her December 19, 2006 interview. The record shows that on an unrecorded date, the applicant requested her interview to be rescheduled. However, she failed to provide a reason for her request. Accordingly, the director denied the application in part based on the applicant's failure to appear for her interview. Pursuant to 8 C.F.R. § 103.2(b)(13)(ii), if an applicant fails to appear for an interview, the application shall be considered abandoned. A denial due to abandonment may not be appealed to the AAO. 8 C.F.R. § 103.2(b)(15). Therefore, the appeal must be rejected for lack of jurisdiction. It is noted that, pursuant to 8 C.F.R. § 245a.2(q), the director may *sua sponte* reopen and reconsider any adverse decision.

ORDER: The appeal is rejected.