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U.S. Citizenship
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[REDACTED]

SEP 15 2008

FILE: [REDACTED] Office: HOUSTON Date:
MSC-06-018-13039

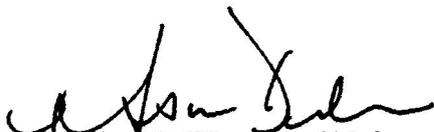
IN RE: Applicant: [REDACTED]

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-REPRESENTED¹

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

¹ Though the record contains a properly executed Form G-28 that indicates that [REDACTED] is the representative of record, the applicant has asked to have this representative removed from all correspondence related to his case as of the date of his appeal. Accordingly, the applicant is considered self-represented.

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, Houston. The decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be remanded for further action and consideration.

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. In denying the application, the director referred to the regulation at 8 C.F.R. § 103.2(b)(13), which states in pertinent part that if an individual requested to appear for fingerprinting or for an interview does not appear, the Service does not receive his or her request for rescheduling by the date of the fingerprint appointment or interview, or the applicant or petitioner has not withdrawn the application or petition, the application or petition shall be considered abandoned and, accordingly, shall be denied. The director denied the application because the applicant failed to appear for his interview regarding his Form I-687 application. The director stated that her office sent this appointment notice to the last address provided by the applicant to Citizenship and Immigration Services (CIS).

On appeal, the applicant asserts that he is appealing the director's decision because he never received the interview appointment notice from CIS. He states that though his attorney, [REDACTED], received the notice, he did not inform the applicant of the appointment. He requests a new interview appointment date and requests that [REDACTED] be removed as his representative of record.

The record shows that the applicant stated his address of record was [REDACTED] in Conroe Texas at the time of his interview pursuant to his Form I-485 Application to Register Permanent Resident or Adjust Status interview on April 20, 2004. The record also shows that the applicant submitted a status update inquiry regarding his employment authorization application on September 22, 2006. This inquiry indicated that he resided at this same address. On October 2, 2006, the Houston District Office sent the applicant a fingerprint appointment notice to this same address of record that appears to have been successfully delivered. However, on October 5, 2006 the Houston District Office sent the applicant's appointment notice to [REDACTED] in Conroe, Texas. The record shows that this interview notice was returned as undeliverable because no such number existed.

The AAO finds that a typographical error in the applicant's mailing address caused the applicant to fail to receive his interview appointment notice. Because the notice was not sent to the applicant at his address of record, he cannot be considered to have abandoned his application. Therefore, the director's particular grounds for the denial of his application have been overcome. The AAO also notes that the applicant has submitted a Form AR-11 Alien's Change of Address

with his appeal that indicates that as of October 31, 2006 his address of record was [REDACTED] in Conroe, Texas.

Because the director's grounds for the denial of the application have been overcome, the AAO withdraws the director's decision and remands the matter to the director for further action and consideration.

ORDER: The matter is remanded so that the applicant may be afforded the opportunity to appear at an interview regarding his Form I-687 application so that the application can then be adjudicated on the merits.