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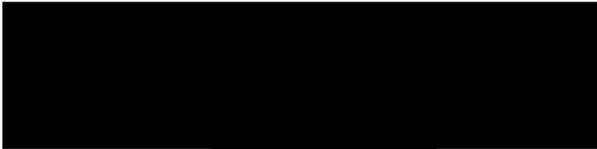
U.S. Department of Homeland Security  
20 Mass Ave. N.W., Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

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FILE:



Office: NEW YORK

Date:

**JUL 17 2007**

MSC-05-228-10189

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:

Self-represented

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. If your appeal was sustained, or if your case 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 May 16, 2005, the applicant filed an application for status as a temporary resident pursuant to section 245A of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1255a, under 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). The denial of the application for status as a temporary resident by the District Director, New York, is before the Administrative Appeals Office on appeal. The appeal will be rejected.

An adverse decision regarding temporary resident status may be appealed to the Administrative Appeals Office. Any appeal with the required fee shall be filed with the Service Center within thirty (30) days after the date of the denial notice. An appeal received after the thirty-day period has tolled will not be accepted. 8 C.F.R. § 245a.2(p). Whenever a person has the right or is required to do some act within a prescribed period after the service of notice upon him and the notice is served by mail, three days shall be added to the prescribed period. Service by mail is complete upon mailing. 8 C.F.R. § 103.5a(b).

The regulation at 8 C.F.R. § 103.2(a)(7) provides that an application or petition which is submitted with the wrong filing fee shall be rejected as improperly filed.

The record reflects that the director issued the denial notice on February 27, 2006 to the applicant at his address of record. On March 29, 2006, the applicant submitted his Form I-694, Notice of Appeal of Decision. On April 4, 2006, Citizenship and Immigration Services issued a rejection notice informing the applicant that he submitted the incorrect filing fee. On April 17, 2006, the applicant's Notice of Appeal was received as properly filed.

The director issued the denial notice on February 27, 2006, and mailed it to the applicant's address of record. The Notice of Appeal was received as properly filed on April 17, 2006, forty-nine (49) days after the date indicated on the denial notice. Therefore, the appeal was untimely filed, and must be rejected.

**ORDER:** The appeal is rejected as untimely filed.