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FILE:

[Redacted]
MSC 05 215 10598

Office: NEW YORK

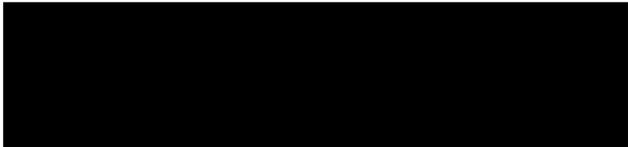
Date: AUG 13 2007

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. All documents have been returned to the office that 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: 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, New York, New York, and is now before the Administrative Appeals Office (AAO) on appeal. This matter will be remanded for further action and consideration.

The district director concluded that the applicant had not established that he was eligible for class membership pursuant to the CSS/Newman Settlement Agreements and, therefore, was not eligible to adjust to temporary resident status pursuant to the terms thereof.

On appeal, counsel acknowledges the applicant's prior approval of a properly and timely filed Form I-687 application and maintains the claim that the applicant warrants treatment as a class member pursuant to the CSS/Newman Settlement Agreements.

Paragraph 7, page 4 of the CSS Settlement Agreement and paragraph 7, page 7 of the Newman Settlement Agreement both state in pertinent part:

Before denying an application for class membership, the Defendants shall forward the applicant or his or her representative a notice of intended denial explaining the perceived deficiency in the applicant's Class Member Application and providing the applicant thirty (30) days to submit additional written evidence or information to remedy the perceived deficiency.

If the director finds that the alien is ineligible for class membership, the director must first issue a notice of intent to deny, which explains any perceived deficiency in the applicant's Class Member Application and provides the applicant 30 days to submit additional written evidence or information to remedy the perceived deficiency. Once the alien has had an opportunity to respond to any such notice, if the applicant has not overcome the director's finding then the director must issue a decision regarding the applicant's eligibility for class membership to both counsel and the applicant. Any adverse decision and still pending appeal shall be forwarded to the Special Master as designated in paragraph 9, page 5 of the CSS Settlement Agreement and paragraph 9, pages 7 and 8 of the Newman Settlement Agreement for review and adjudication of the applicant's appeal as it relates to his eligibility for class membership.

If the applicant's appeal is sustained by the Special Master with respect to the issue of his class membership, the district director shall forward the matter to the AAO for the adjudication of his appeal as it relates to the issue of his continuous residence in the United States in an unlawful status since before January 1, 1982 through May 4, 1988.

ORDER: This matter is remanded for further action and consideration pursuant to the above.