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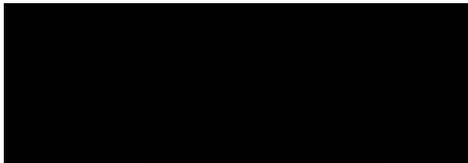
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE: MSC-05-351-12360 Office: NATIONAL BENEFITS CENTER Date: **JUL 29 2008**

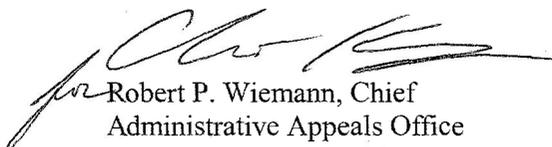
IN RE: Applicant: 

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. 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.


for 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 National Benefits Center. The decision is now before the Administrative Appeals Office (AAO) on appeal. This matter 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. The director determined that the applicant had not established by a preponderance of the evidence that she had continuously resided in the United States in an unlawful status for the duration of the requisite period. The director denied the application, finding that the applicant had not met her burden of proof and was, therefore, not eligible to adjust to temporary resident status pursuant to the terms of the CSS/Newman Settlement Agreements.

On appeal, the applicant asserts that she was never scheduled for an interview, and therefore, was unable to give testimony concerning her residence in the United States.

Each applicant for temporary resident status shall be interviewed by an immigration officer, except that the interview may be waived for a child under 14, or when it is impractical because of the health or advanced age of the applicant. 8 C.F.R. § 245a.2(j).

A review of the record reveals that the applicant was never interviewed in relation to her application for temporary resident status, and none of the exceptions to the interview requirement apply in this case. Accordingly, the decision of the director is withdrawn. The case will be remanded for the applicant to be scheduled for an interview with an immigration officer.

After the interview is conducted and the complete record is reviewed, then the director shall issue a new decision to the applicant. If the director finds that the applicant is not eligible for temporary resident status, then the director shall forward the matter to the AAO for the adjudication of the applicant's appeal as it relates to the issue of whether the applicant has demonstrated eligibility for temporary resident status.

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