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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529 - 2090



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
MSC-05-168-10892

Office: NEW YORK

Date:

FEB 04 2010

IN RE: Applicant: [REDACTED]

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.

Perry Rhew
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 director of the New York office. The Administrative Appeals Office (AAO) summarily dismissed the applicant's appeal. The matter is now before the AAO on a motion to reopen. The AAO will reject the motion.

The applicant filed a Form I-694, Notice of Appeal to the AAO. The appeal was summarily dismissed by the AAO, after the applicant failed to address the basis for the denial, and failed to submit a brief or any additional evidence.¹ The applicant has filed a motion to reopen, currently before the AAO.²

Although motions to reopen a proceeding or reconsider a decision shall not be considered under Section 245A of the Act, the AAO may *sua sponte* reopen and reconsider any adverse decision.³ However, the applicant has not submitted any additional evidence or legal arguments in his motion to reopen.⁴ Therefore, the AAO finds that the record in this case does not warrant a reopening *sua sponte*.

Accordingly, the motion to reopen will be rejected and the previous decision of the AAO will not be disturbed.

ORDER: The motion to reopen is rejected. This decision constitutes a final notice of ineligibility.

¹ The record reflects that the applicant's FOIA request, NRC2008055619, was processed on August 8, 2009.

² An attorney has filed the instant motion on the applicant's behalf. However, as noted in the director's decision, the attorney has not provided a completed Form G-28, Notice of Entry of Appearance as Attorney or Representative. Since the AAO has determined that favorable action is not warranted, as set forth in this decision, the attorney will not be requested to submit the G-28 form.

³ The AAO's decision dismissing the appeal specifically advises the applicant on the cover page that "...you are not entitled to file a motion to reopen or reconsider your case."

⁴ The documents included with the motion were considered by the director in denying the case.