



U.S. Citizenship
and Immigration
Services

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FILE:

MSC 05 173 10616

Office: LOS ANGELES

Date:

JAN 28 2010

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:

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, 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 Director, Los Angeles. Specifically, the director denied the applicant's status as a class member. The applicant then filed an "Appeal to Special Master of Denial of Class Membership" with the appropriate fee as instructed by the director. An amended decision was thereafter entered by the director, Lee's Summit, Missouri, on July 31, 2007. That decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

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. Subsequent thereto, the director issued a Notice Of Intended Denial Of Class Membership. The applicant responded to that notice. The director then issued a Notice Of Denial Of Class Membership on June 14, 2006, notifying the applicant of his right to appeal the matter to a Special Master. See CSS Settlement Agreement paragraph 8 at page 5; Newman Settlement Agreement paragraph 8 at page 7. The applicant filed a timely Special Master appeal to that determination. On July 31, 2007, an amended decision was issued by the director, Lee's Summit, Missouri, stating that the director's decision of June 14, 2006 was not a denial of class membership and awarded the applicant the right to appeal the decision to the AAO.

On appeal, counsel states that United States Citizenship and Immigration Services (USCIS) erred in issuing its decision of July 31, 2007, that the Form I-687 should have been adjudicated, and that the applicant is eligible for the immigration benefit sought.

The decision of the director, Lee's Summit, Missouri (July 31, 2007) is erroneous. The director, Los Angeles, determined that the applicant was not a class member and followed correct procedure in issuing her decision. The applicant filed a timely appeal to that determination as instructed by the director.

Pursuant to 8 C.F.R. § 245a.2(p), the AAO has jurisdiction over the denial of an Application for Temporary Resident Status under section 245A of the Act. Here, the application was denied based on the applicant's failure to establish Class Membership under the CSS/Newman Settlement Agreements. Therefore, the AAO is without authority to review the denial of the application.

Since the AAO is without authority to review the denial of the application, the appeal must be rejected. The AAO suggests that the director refund any appeal fee paid by the applicant to appeal the decision of the Lee's Summit, Missouri director dated July 31, 2007.

ORDER: The appeal is rejected.