



U.S. Citizenship
and Immigration
Services

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AUG 02 2007

FILE:

MSC 05 183 10805

Office: MISSOURI SERVICE CENTER

Date:

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. The file has 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: 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, Missouri Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The director denied the application because the applicant had been convicted of a felony. Specifically, the applicant was convicted on January 24, 2002, in the Supreme Court of the State of New York, New York, New York, of trademark counterfeiting in violation of section 165.72 of New York Public Law, a second degree felony. (Date of arrest: July 9, 2001; Case number [REDACTED])

In order to properly file an appeal, the regulation at 8 C.F.R. § 103.3(a)(2)(i) provides that the affected party must file the complete appeal within 30 days of after service of the unfavorable decision. If the decision was mailed, the appeal must be filed within 33 days. *See* 8 C.F.R. § 103.5a(b). The date of filing is not the date of mailing, but the date of actual receipt. *See* 8 C.F.R. § 103.2(a)(7)(i).

The record indicates that the director issued the decision on March 30, 2006, and mailed the decision to the applicant's address of record. It is noted that the director properly gave notice to the applicant that he had 33 days to file the appeal. Although counsel dated the appeal May 1, 2006, it was mailed via United States Postal Service Express Mail on May 2, 2006, and received by the director on May 4, 2006, 35 days after the decision was issued. There, the appeal was untimely filed and must be rejected.

ORDER: The appeal is rejected.