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U.S. Citizenship
and Immigration
Services

LL

[Redacted]

FILE: [Redacted] MSC-05-250-13735

Office: NEWARK

Date: AUG 29 2007

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. All documents have 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 [REDACTED] LKK (E.D. Cal) January 23, 2004, and *Felicity Mary Newman, et al., v. United States Immigration and Citizenship Services, et al.*, CIV. NO. [REDACTED] (C.D. Cal) February 17, 2004 (CSS/Newman Settlement Agreements), was denied by the District Director, Newark. The decision is now before the Administrative Appeals Office on appeal. The appeal will be rejected.

The director denied the application because the applicant failed to prove eligibility for temporary residence under Section 245A of the Immigration and Nationality Act. On appeal, the applicant submitted a Form I-694, Notice of Appeal, signed by [REDACTED]. The Notice of Appeal indicates that [REDACTED] is the attorney for the applicant.

An applicant for temporary resident status may appeal an adverse decision on a Form I-694. 8 C.F.R. § 245a.2(o). The applicant may be represented by an attorney or representative in accordance with 8 C.F.R. § 292. See 8 C.F.R. § 103.3(a)(1)(iii)(B). The person acting in a representative capacity must be "authorized and qualified to represent," and a notice of appearance must be signed by the applicant to authorize representation in order for the appearance to be recognized by the U.S. Citizenship and Immigration Services (CIS). 8 C.F.R. § 292.4.

The regulations further provide that every application, petition, appeal, motion, request, or other document submitted on the form prescribed by the Department of Homeland Security regulations shall be executed and filed in accordance with the instructions on the form; and the instructions are incorporated into the particular section of the regulations requiring its submission. 8 C.F.R. § 103.2(a)(1). Form I-694 includes the following instruction:

Any Form I-694 that is not signed or accompanied by the correct fee will be rejected with a notice that the Form I-694 is deficient. [An applicant] may correct the deficiency and resubmit the Form I-694.¹

In this case the Form I-694 is not signed by the applicant, but rather by [REDACTED] who identifies himself as the applicant's attorney. There is no Form G-28, Notice of Entry of Appearance of Attorney or Representative, in the file, however, to indicate that [REDACTED] is an attorney or representative who is authorized to represent the applicant. On July 31, 2007, the AAO sent via fax a written request to [REDACTED] to obtain a copy of his Form G-28. The AAO has not received a response from [REDACTED] as of the date of this decision.

As the appeal has not been signed and filed by the applicant or by any authorized representative, the appeal is deficient and has not been properly filed. The appeal, therefore, must be rejected.

ORDER: The appeal is rejected.

¹ Note, however, that a rejected application or petition will not retain a filing date. 8 C.F.R. § 103.2(a)(7). As Form I-694 must be filed within 30 days of the notice of decision, it would not be possible to timely resubmit the Form I-694 in this case.