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U.S. Citizenship
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Services

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FILE:



MSC 04 267 10066

Office: LOS ANGELES

Date:

NOV 09 2007

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. All documents have been returned to the office that originally decided your case. If your appeal was sustained, or if the matter 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 District Director, Los Angeles, California, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The director determined that the applicant had not demonstrated that he had continuously resided in the United States in an unlawful status since before January 1, 1982 through the date that he attempted to file a Form I-687, Application for Status as a Temporary Resident, with the Immigration and Naturalization Service or the Service (now Citizenship and Immigration Services or CIS) in the original legalization application period between May 5, 1987 to May 4, 1988. Therefore, the director concluded that the applicant was not eligible to adjust to temporary resident status pursuant to the terms of the CSS/Newman Settlement Agreements and denied the application.

On appeal, the applicant states that he has presented evidence of his continuous residence in the United States since 1981, and that, although he filed his tax returns for 1981-1983 late, he is paying the required taxes plus penalty and interest. The applicant submitted no additional documentation in support of the appeal.

An adverse decision on an application for adjustment to permanent resident status may be appealed to the AAO. Any appeal shall be submitted to the district office with the required fee within thirty (30) days after service of the notice of denial. An appeal received after the thirty-day period has tolled will not be accepted. The thirty-day period for submitting an appeal begins three days after the notice of denial is mailed. 8 C.F.R. § 245a.3(j).

The director issued the Notice of Denial on December 1, 2005 and mailed it to the applicant at his address of record. The district office returned the applicant's June 14, 2006 appeal of the director's decision because the applicant failed to sign the document and failed to submit the proper fee. The district office received the properly signed appeal with the appropriate fee on July 13, 2006, over seven months after the director issued her decision. Therefore, the appeal was untimely filed, and must be rejected.

The record contains an Orange County, California Sheriff's Office booking information record indicating that the applicant was arrested on October 16, 1995 for violation of California Vehicle Codes 23152(a) and (b) for driving under the influence of alcohol or drugs and driving with a blood alcohol content in excess of .08 percent, and with failure to have a valid driver's license. The applicant was also apprehended on October 23, 1995 for violations of California Penal Codes 647(b), prostitution, and 853.7, failure to appear. The record also reflects that the applicant was arrested on March 1, 1996 for failure to appear. Although the applicant submitted documentation in response to the director's request for additional evidence, the record does not contain a final disposition for these offenses.

ORDER: The appeal is rejected.