

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



LI

FILE: [REDACTED]
MSC-05-206-10452

Office: NEWARK, NJ

Date: OCT 04 2007

IN RE: Applicant: [REDACTED]

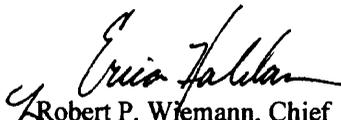
APPLICATION: Application for Status as a Temporary Resident pursuant to Section 245A of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1255a

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 District Director, Newark, NJ District Office and that decision is now before the Administrative Appeals Office on appeal. The appeal will be rejected.

In her Notice of Intent to Deny (NOID), the director noted and the record reflects that the applicant successfully filed a Form I-687 with the Service during the original legalization filing period. Therefore, the director found that the applicant had not been "front-desked," or prevented from or discouraged from filing for legalization during the original filing period. She further noted that the applicant did not establish that he otherwise met the definition of a class member as stated in the CSS/Newman settlement agreements. The director granted the applicant thirty (30) days within which to submit additional evidence in support of his application. However, the applicant did not submit a rebuttal or additional evidence for consideration in response to the director's NOID. Therefore, the director found that the applicant did not overcome her reasons for denial as stated in her NOID and denied his application.

An adverse decision regarding temporary resident status may be appealed to the Administrative Appeals Office. Any appeal with the required fee shall be filed with the Service Center 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. *See* 8 C.F.R. § 245a.2(p). Pursuant to 8 C.F.R. § 103.5a(b), whenever a person has the right or is required to do some act within a prescribed period after the service of notice upon him and the notice is served by mail, three days shall be added to the prescribed period. Service by mail is complete upon mailing. If the last day of the period so computed falls on a Saturday, Sunday or a legal holiday, the period shall run until the end of the next day which is not a Saturday, Sunday, nor a legal holiday. 8 C.F.R. § 1.1(h).

The director issued her decision on July 21, 2006, and mailed it to the applicant's address of record. The applicant's appeal was received by the Service August 28, 2006, thirty-eight (38) days after the notice of decision was issued. Therefore, the appeal was untimely filed, and must be rejected.

ORDER: The appeal is rejected.