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PUBLIC COPY

U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: NEW JERSEY Date: OCT 2 6 2007

MSC 05 011 10398

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: 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 notice of intent to deny the application for temporary resident status by the District Director, Newark, New Jersey, is before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

On May 10, 2006, the director issued a notice of his intent to deny the applicant's Form I-687 application for temporary resident status based on the determination that his previously filed Form I-687 had been approved, thereby making the applicant ineligible 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).

On June 7, 2006 Citizenship and Immigration Services (CIS) received the applicant's appeal in which the applicant states that he submitted supporting evidence that was disregarded by the director.[1]

In order to properly file an appeal, the regulation at 8 C.F.R. § 245a.2(p) provides that an application for temporary resident status may be appealed to the AAO within thirty (30) days *after* service of the notice of denial. Here, the applicant filed an appeal prior to the issuance of a final decision.

The authority to adjudicate appeals is delegated to the AAO by the Secretary of the Department of Homeland Security (DHS) pursuant to the authority vested in him through the Homeland Security Act of 2002, Pub. L. 107-296. *See* DHS Delegation Number 0150.1 (effective March 1, 2003); *see also* 8 C.F.R. § 2.1 (2003). The AAO exercises appellate jurisdiction over the matters described at 8 C.F.R. § 103.1(f)(3)(iii) (as in effect on February 28, 2003), (with one exception - petitions for approval of schools under § 214.3 are now the responsibility of Immigration and Customs Enforcement (ICE)).

There is no regulatory provision that would permit the AAO to adjudicate an appeal for a petition or application that has not been adjudicated. Accordingly, the appeal must be rejected.

ORDER: The appeal is rejected.

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[1] Although the appeal was signed by the applicant, it was also signed by [redacted] of Unified Service Agency Corporation of Elizabeth, New Jersey, who filed a Form G-28, Notice of Appearance as Attorney or Representative. On the Form G-28, [redacted] stated that she is associated with an attorney, [redacted] who had not previously filed a Form G-28 in her own right. In light of this fact and the fact that [redacted] is not an attorney, nor a law student or law graduate, the necessary legal requirements have not been met in order to allow [redacted] to appear in place of [redacted]. *See* 8 C.F.R. § 292.1(a)(2). Additionally, the Form I-694 filed on June 7, 2006 indicates that [redacted] is associated with [redacted] who also did not file a Form G-28. Accordingly, a copy of this decision will be sent only to the applicant.