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



U.S. Citizenship
and Immigration
Services

L1

[REDACTED]

FILE:

MSC 05 225 11170

Office: CHICAGO

Date:

AUG 07 2008

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:

[REDACTED]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits Center. 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. If your appeal was sustained or remanded for further action, you will be contacted.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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, Chicago. The decision is now before the Administrative Appeals Office (AAO) on appeal. The director's decision shall be withdrawn and the matter will be remanded for entry of a new decision.

The applicant submitted a Form I-687, Application for Status as a Temporary Resident under Section 245A of the Immigration and Nationality Act (Act), and a Form I-687 Supplement, CSS/Newman Class Membership Worksheet. The director determined that the applicant failed to appear, without explanation, for an interview on June 20, 2006, and denied the application pursuant to 8 C.F.R. § 103.2(b)(13) as having been abandoned.

On appeal, the applicant states that he did not receive the interview notice prior to the scheduled interview, and that upon receipt, he immediately notified Citizenship and Immigration Services (CIS) of his failure to receive the interview notice and requested a new interview date. CIS records indicate that the applicant submitted a change of address to CIS on May 30, 2006, noting that his new residence was in California. By interview notice dated June 7, 2006, CIS notified the applicant that an interview was scheduled for him on June 20, 2006 in Chicago, IL. The interview notice, however, was sent to the applicant's previous address in Chicago, not his new address in California. This represents an error on the part of CIS as the applicant had submitted a change of address to CIS prior to the mailing of his interview notice. As such, the director's decision shall be withdrawn and this matter shall be remanded to the director who shall schedule a new interview for the applicant.

It should be further noted that the applicant has requested that his case be transferred to the California office having jurisdiction over the applicant's new residence.

ORDER: The director's decision is withdrawn. This matter is remanded to the director who shall schedule a new interview for the applicant in this proceeding and enter a new decision based upon all evidence of record.