



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**  
identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy



LI

FILE: MSC-05-145-10834

Office: NEW YORK Date: JAN 04 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: SELF-REPRESENTED

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, New York, and that decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The director determined 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 of May 5, 1987 to May 4, 1988. Specifically, in the director's Notice of Intent to Deny (NOID), she stated that the applicant's absence from January 1988 until September of 1990 indicated that he did not maintain continuous residency for the duration of the requisite period, as this absence was for more than forty-five (45) days during the requisite period. The director granted the applicant thirty (30) days within which to submit additional evidence in support of his application. Though the director noted that the applicant asserted that his absence that began in 1988 was prolonged because of his mother's health, the director noted that the applicant provided no evidence that his mother was ill at that time. She further stated that the applicant testified that he did not submit an application for Temporary Residence to the INS during the original legalization filing period. *The language in the director's decision indicates that she found that because the applicant did not successfully apply for amnesty during the original legalization filing period, he has not eligible for legalization pursuant to the CSS/Newman Settlement Agreements.*

In this case, the director adjudicated the Form I-687 application on the merits. As a result, the director is found not to have denied the application for class membership.

On appeal, the applicant asserts that he has previously submitted documents to the Service in support of his application for legalization. He asserts that he first entered the United States in 1980 and that he attempted to apply for legalization during the original filing period but was turned away because he had traveled out of the United States without authorization.

Only an affected party, a person or entity with legal standing, may file an appeal of an unfavorable decision. 8 C.F.R. § 245a.3(i). In this case the Form I-694, Notice of Appeal of Decision under Section 210 or 245A of the Immigration and Nationality Act, is signed by [REDACTED] Director, Liberty Immigration and Citizenship Service, Inc.

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.<sup>1</sup>

In this case the Form I-694 is not signed by the applicant, but rather by [REDACTED]. 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. Further, neither [REDACTED] or his organization are accredited.

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. This decision constitutes a final notice of ineligibility.

---

<sup>1</sup> 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.