

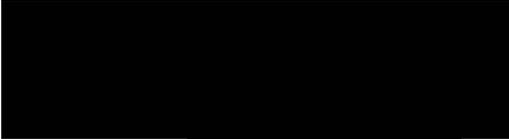
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U.S. Citizenship
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Services

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FILE: [REDACTED]
MSC-06-075-12159

Office: CHARLOTTE Date: JUN 03 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:



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 Records 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 "R. 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, Charlotte, North Carolina. That decision is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The director denied the application on October 19, 2006 because the applicant was requested to appear for an interview on October 19, 2006, and failed to appear. Specifically the director found that the applicant failed to provide a good cause request for rescheduling the interview and/or evidence that the applicant's failure to appear was due to circumstances beyond the applicant's control.¹

According to the director the applicant did make a request on September 22, 2006, to reschedule the requested interview by stating that "I am looking for legal assistance." The director noted that a Form G-28 "Notice of Entry of Appearance as Attorney or Representative" dated December 7, 2005, was received from attorney Jonathan Saint-Preux as submitted with the Form I-687 application.

On appeal filed July 27, 2007, the applicant asserted in part:

I was scheduled to appear on October 19, 2006 at the Charlotte Service Center, however I failed to appear [sic] date because I was unaware that I had an interview [sic] I was under the impression that I had rescheduled the interview for a latter date explaining that I was looking for legal assistance. I would like to present myself along with my evidence at another later date.

No statement, brief or evidence was submitted with the appeal by the applicant.

¹ The regulation at 8 C.F.R. § 103.2(b)(13)(i) (ii) states:

Effect of failure to respond to a request for evidence or a notice of intent to deny or to appear for interview or biometrics capture—

* * *

(ii) Failure to appear for . . . interview or other required in-person process. Except as provided in 8 CFR 335.6, if USCIS requires an individual to appear for . . . an interview, or other required in-person process but the person does not appear, the application or petition shall be considered abandoned and denied unless by the appointment time USCIS has received a change of address or rescheduling request that the agency concludes warrants excusing the failure to appear.

As stated in 8 C.F.R. § 103.3(a)(3)(iv), any appeal that fails to state the reason for appeal, or is patently frivolous, will be summarily dismissed.

A review of the decision reveals that the director accurately set forth a legitimate basis for denial of the application. The appeal is patently frivolous. The appeal must therefore be summarily dismissed.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.