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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

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[REDACTED]

FILE:

[REDACTED]

Office: NEWARK

Date:

Oct 09 2008

MSC-06-046-13332

IN RE:

Applicant:

[REDACTED]

APPLICATION:

Application for Temporary Resident Status under 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.

~~1037~~

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The director of the Newark office denied the application for temporary resident status made 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). The decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as untimely filed.

The director denied the application because the evidence provided by the applicant was insufficient to overcome the inconsistencies identified by the director in the Notice of Intent to Deny. The director found that the applicant had failed to meet his burden of establishing by a preponderance of the evidence that he resided in the United States for the requisite periods, is admissible under the provisions of section 245A of the Immigration and Nationality Act, and is otherwise eligible for adjustment of status under this section.

An adverse decision on an application for temporary resident status may be appealed to the AAO; the appeal with the required fee must be filed within 30 days after service of the notice of denial. 8 C.F.R. § 245a.2(p). The date of filing is not the date of mailing, but the date of actual receipt. *See* 8 C.F.R. § 103.2(a)(7)(i). An appeal that is not timely filed will not be accepted. 8 C.F.R. § 245a.2(p).

In this case, the director issued the notice of denial on January 23, 2007 and mailed it to the applicant's address of record. The record indicates that the appeal was initially rejected because the date on the check submitted with the appeal was not current. The appeal was properly filed on March 6, 2007, 42 days after the director issued his decision. Therefore, the appeal was untimely filed and must be rejected.

**ORDER:** The appeal is rejected.