



U.S. Citizenship
and Immigration
Services

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

PUBLIC COPY

L1



FILE: [Redacted]
MSC 04 297 11478

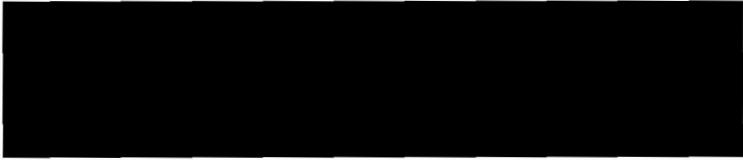
Office: SAN FRANCISCO

Date: APR 28 2009

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 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.

John F. Grissom
Acting 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 Director, San Francisco, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The director determined that the applicant failed to demonstrate that he 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 U.S. Citizenship and Immigration Services or USCIS) in the original legalization application period of May 5, 1987 to May 4, 1988. Therefore, the director determined that the applicant was not eligible to adjust to temporary resident status pursuant to the terms of the CSS/Newman Settlement Agreements and denied the application.

On appeal, counsel, on behalf of the applicant, asserts that USCIS failed to issue a Notice of Intent to Deny. Counsel also asserts that the applicant was prejudiced by the denial of counsel at an interview in the spring of 2005, several years after a non-restricted Form G-28 was filed. Counsel contends that the applicant submitted extensive evidence in connection with this application. Counsel asserts that a brief and/or evidence will be submitted to the AAO within 30 days of receipt of the record of proceedings.

Pursuant to 8 C.F.R. § 103.2(13), if all requested initial evidence and requested additional evidence is not submitted by the required date, the application or petition shall be considered abandoned and, accordingly, shall be denied.

The record reflects that a Notice of Intent to Deny, dated January 29, 2007, was mailed to the applicant at his address of record. The director determined that the applicant failed to provide sufficient documentation to fulfill the requirements for legalization pursuant to Section 245A of the Immigration and Nationality Act. The director provided the applicant with 30 days in which to provide evidence in rebuttal. The record reflects that no evidence was received. Given this, the application was deemed abandoned and denied for lack of prosecution. Therefore, the appeal must be rejected.

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