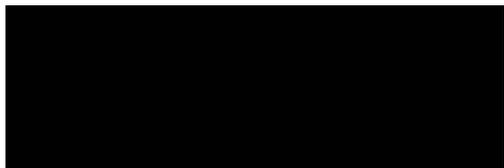




U.S. Citizenship  
and Immigration  
Services

L1



FILE: [Redacted]  
MSC 04 316 10075

Office: NEW YORK

Date: DEC 07 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: Self-represented

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. If your appeal was sustained, or if the matter 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.

A handwritten signature in black ink, appearing to read "Perry Rhew".

Perry Rhew  
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, New York, New York, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected. This matter will be returned for further action and consideration.

The director denied the application based upon the conclusion that the applicant had not established that he was eligible for class membership pursuant to the CSS/Newman Settlement Agreements.

On appeal, the applicant reiterates his claim of residence in the United States for the requisite period.

Paragraph 9.B, page 5 of the CSS Settlement Agreement and paragraph 9.B, pages 7 and 8 of the Newman Settlement Agreement both state in pertinent part:

Review of Decisions Involving Determination of Class Membership. Any decisions by defendants denying an application for subclass membership may be appealed to a Special Master. Any such appeal must be post-marked within thirty (30) days of the date of mailing of the notice denying the application for class membership. The Special Master's review shall be based on the documents and other evidence submitted by the applicant, and any documentary evidence relied upon by defendants in reaching the decision to deny the application for class membership.

A review of the record reveals that the director instructed the applicant to appeal the decision denying his application for class membership to the AAO, rather than the Special Master.

The pending appeal shall be forwarded to the Special Master as designated in paragraph 9.B, page 5 of the CSS Settlement Agreement and paragraph 9.B, pages 7 and 8 of the Newman Settlement Agreement for review and adjudication of the applicant's appeal as it relates to his eligibility for class membership. If the applicant's appeal is sustained by the Special Master with respect to the issue of his class membership, the director shall continue the adjudication of his application as it relates to the issue of his continuous residence in the United States in an unlawful status since before January 1, 1982 through the date he attempted to file his application.

**ORDER:** The appeal is rejected. The matter is returned for further action and consideration pursuant to the above.