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U. S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
XPE-80-906-01899

Office: BALTIMORE

Date:

MAY 04 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 was denied by the District Director, Baltimore. The decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The applicant filed a Form I-687, Application for Status as a Temporary Resident under Section 245A of the Immigration and Nationality Act (Act). The District Director denied the application, finding that the applicant had not established by a preponderance of the evidence that he had continuously resided in the United States in an unlawful status for the duration of the requisite period.

The record reflects that District Director adjudicated this application in error because it was filed outside any applicable filing period. The original legalization application filing period began on May 5, 1987 and ended on May 4, 1988. *See* 8 C.F.R. § 245a.2(a). The applicant filed the instant application subsequent to the original legalization application filing period on December 4, 1989.

The director indicated in the denial notice that the application was adjudicated pursuant to the terms of the CSS/Newman Settlement Agreements based on the applicant's status as a class member of either *Catholic Social Services, Inc., et al., v. Ridge, et al.* or *Felicity Mary Newman, et al., v. United States Immigration and Citizenship Services, et al.* However, the application was filed prior to the date the district courts approved the CSS/Newman Settlement Agreements, and therefore does not contain a corresponding CSS/Newman Class Membership Application. The CSS Settlement Agreement was approved by the United States District Court for the Eastern District of California on January 23, 2004 and the Newman Settlement Agreement was approved by the United States District Court for the Central District of California on February 18, 2004.¹ Therefore, the instant application, filed December 4, 1989, was adjudicated in error as a CSS/Newman Settlement Agreement case.

Since this application was not filed within any applicable filing period, it was adjudicated in error by the District Director. Accordingly, the AAO will withdraw from the record the District Director's adjudication of this application. The AAO, therefore, is without any authority to review the merits of the application, and the appeal must be rejected.

ORDER: The appeal is rejected.

¹ *See* www.uscis.gov for a list of USCIS Settlement Notices and Agreements.