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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]
MSC 04 343 10702

Office: NEW YORK

Date: NOV 20 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. The file has been returned to the National Benefits Center. 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.

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. The decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

In a Notice of Decision (NOD), the director denied the application on August 7, 2007, because the applicant did not establish that he had continuously resided in the United States in an unlawful status for the duration of the requisite period. The director noted that the applicant had not responded to a Notice of Intent to Deny (NOID) the application that was mailed to the applicant on August 25, 2005. The record reflects that the NOID was mailed to the applicant at his address of record: [REDACTED] by certified mail; however, the NOID was returned to United States Citizenship and Immigration Services (USCIS) as “unclaimed – unable to forward.”

The applicant filed an appeal from the director’s decision on September 6, 2007, asserting that he had never received the NOID. Therefore, on September 3, 2009, the AAO mailed a copy of the NOID to the applicant at the address he had provided on his appeal: [REDACTED]

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 as set forth in the NOID and that the applicant has been provided with a copy of the NOID to the address he provided on appeal. To date, the applicant has not responded to the AAO’s notice and/or to the reasons for denial cited by the director in the NOID. The appeal must therefore be summarily dismissed.

As always in these proceedings, the burden of proof rests solely with the applicant. Section 245a.2(d)(5) of the Act.

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