



U.S. Citizenship
and Immigration
Services

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SEP 03 2009

FILE:

MSC 06 101 27693

Office: OKLAHOMA CITY

Date:

IN RE: Applicant:

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. 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.

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

The director denied the application on December 28, 2006, because it was filed after the application period had expired on December 31, 2005.

United States Citizenship and Immigration Services (USCIS) announced in a May 16, 2005, Press Release that the filing deadline for submitting Form I-687 applications under the CSS/Newman Settlement Agreements was extended from May 23, 2005, to December 31, 2005. Pursuant to the CSS/Newman Settlement Agreements (Paragraph 4), “applications shall be deemed filed on the date postmarked in accordance with the provisions at 8 C.F.R. § 245a.12(a).”

A review of the record reflects that the applicant’s Form I-687, Application for Status as a Temporary Resident Under Section 245A of the INA (Immigration and Nationality Act, or the Act), was clearly postmarked on January 3, 2006.

8 C.F.R. §245a.2(a)(2)(iv) states that “an alien ... who fails to file an application for adjustment of status to that of a temporary resident under section 245A(a) of the Act during the respective time period(s), will be statutorily ineligible for such adjustment of status.” Because the applicant’s Form I-687 was not timely filed, the application must be denied.

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.