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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  
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Services**

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[REDACTED]

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FILE:

Office: CHICAGO

Date:

**SEP 14 2009**

XPN-80-606-07238

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:

[REDACTED]

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. If your appeal was sustained, or if your case was remanded for further action, you will be contacted. If your appeal was dismissed or rejected, 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 Class Membership in the Catholic Social Services (CSS)/Newman Settlement Agreements was filed by the applicant on November 17, 1991, prior to dates the Settlement Agreements were 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). Even though the applicant did not file a Form I-687 subsequent to the settlement agreements, the Director, Chicago, adjudicated this case as if the applicant had done so and denied the application. The decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The applicant submitted a Form I-687, Application for Status as a Temporary Resident under Section 245A of the Immigration and Nationality Act (Act), to establish class membership in 1991. Although the applicant did not file a Form I-687 pursuant to the CSS/Newman Settlement Agreements, the director adjudicated this previously filed Form I-687 as if it had been submitted pursuant to those settlement agreements. The director denied the application specifically because the applicant did not submit any documentation to support his claim of continuous residence in the United States since before January 1, 1982 and throughout the requisite period.

On appeal, counsel for the applicant submitted a Form I-694, claiming that the applicant entered the United States before January 1, 1982 and attended college in the United States. Counsel additionally submits a photocopy of the applicant's passport and transcript from Onondaga Community College to show that the applicant was physically present and has resided in the United States since before January 1, 1982.

Beginning on May 24, 2004, and continuing through December 31, 2005, as a result of the CSS/Newman Settlement Agreements, applicants who either had previously established they were class members or were prima facie eligible as class members pursuant to those agreements were able to file Forms I-687. Those Forms I-687 were adjudicated and determinations regarding both Class Membership and eligibility of applicants to adjust to temporary resident status were made.

However, in this proceeding, the applicant did not file the application for temporary resident status pursuant to those settlement agreements during the May 24, 2004 to December 31, 2005 filing period. The Form I-687 in the record was submitted to allow United States Citizenship and Immigration Services (USCIS) to determine whether the applicant was a class member rather than to determine his eligibility for temporary resident status under Section 245A of the Act. Even though the director adjudicated the applicant's Form I-687 as though it had been filed pursuant to the Settlement Agreements, this was done in error.

Because the applicant did not file his Form I-687 to establish his eligibility for temporary resident status but rather filed this form for other purposes, the AAO does not have jurisdiction over the matter.

**ORDER:** The appeal is rejected because of a lack of jurisdiction over the matter. This decision constitutes a final notice of ineligibility.