

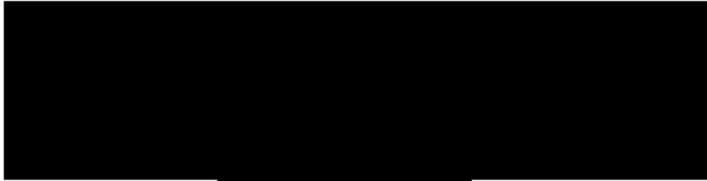
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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
Washington, DC 20529-2090



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FILE:

MSC 06 101 18396

Office: LOS ANGELES, CA

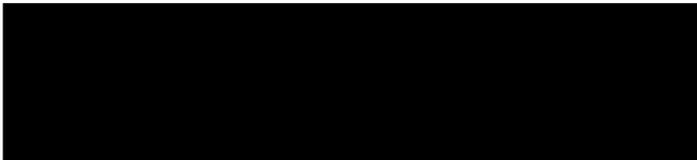
Date: **APR 22 2010**

IN RE:

Applicant: 

APPLICATION: Application for Temporary Resident Status under 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 forwarded to the U.S. Citizenship and Immigration Services National Records 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 if the matter was remanded for further action, the record of proceedings was returned to the office that originally issued a decision in your case, and you will be contacted.

Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, Los Angeles, California denied the Form I-687, Application for Status as a Temporary Resident Under Section 245A of the Immigration and Nationality Act, filed 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, or *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). The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.<sup>1</sup>

The director determined that according to sections 245A(a)(2)(A) and (B) of the Immigration and Nationality Act (the Act), the applicant is not eligible for temporary resident status because he had been in the United States in lawful status during at least a portion of the requisite period which began on a date prior to January 1, 1982 and continued through the date that he filed for temporary resident status. The director also indicated that he had not established class membership in a relevant legalization class-action lawsuit and that as a consequence he is not eligible to adjust to temporary resident status under the CSS/Newman Settlement Agreements. Therefore, the director denied the application.

On appeal, the applicant asserted through counsel that he had established: class membership in a relevant legalization class-action lawsuit; unlawful residence throughout the requisite period; and that he is otherwise eligible to adjust to temporary resident status.

The AAO issued a request for evidence in this matter on November 5, 2009. This office noted in that request that the applicant must submit a current address. In response, the applicant did not provide a current address, but only stated through counsel that he is currently residing in Jordan.

On February 17, 2010, the AAO sent the applicant a notice of intent to dismiss which stated that as the response to the AAO's request for evidence provided through counsel did not include the applicant's current address, it was not clear whether the applicant received that request and was also not clear whether the applicant was still pursuing this application to adjust to temporary resident status using the Form I-687.

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<sup>1</sup> All legalization cases filed with the U.S. Citizenship and Immigration Services (USCIS) which turn on the question of whether an applicant's unlawful status was known to the government throughout the statutory period and related issues were held for an extended period until the final terms of various legalization class-action lawsuits which relate to these issues were handed down, the final such class-action lawsuit being: *Northwest Immigrant Rights Project, et al. vs. U.S. Citizenship and Immigration Services, et al.*, 88-CV-00379 JLR (W.D. Was.)(NWIRP). It is the facts of this case that forced USCIS to place it and others like it on hold, rather than some request on the applicant's part that the case be held pending the outcome of these class-action lawsuits/settlement agreements. The terms of the NWIRP Settlement Agreement were handed down during September 2008. After that, this office began adjudicating these appeals in the order received. As a consequence, this appeal was not completed within the processing time that legalization appeals are normally completed.

The AAO indicated that in order to complete the processing of this application, the applicant must submit documentary proof of his current address. The AAO also indicated that the applicant must submit a signed and dated statement that he is still pursuing this application and that he requests the AAO to render a decision on the appeal. It was explained to the applicant that as this is his application to adjust status to lawful temporary resident in the United States, he must make this request personally, and that a representative may not make the request for him.

The AAO underscored in its notice of intent to dismiss that whenever an applicant does not submit requested material necessary for the processing and approval of a case by the required date, this office shall deem the application abandoned and the appeal shall be dismissed. *See Immigration and Naturalization Service (INS) Operations Instructions* § § 103.2(o) and 245.2(b)(which indicate that an application shall be deemed abandoned and automatically terminated: when the INS requests additional documents or evidence necessary for the adjudication of an application, and puts the applicant on notice that the application shall be deemed abandoned and automatically terminated should he fail to respond within the required time period; when the applicant fails to respond by the required date, and the INS obtains notice that it has no current address for the applicant; and where there is no apparent address through which the INS may reach the applicant.)<sup>2</sup>

This office also stated in the notice of intent to dismiss that if it did not receive the requested material, regarding whether the applicant is pursuing this appeal and his address, within 30 days of the date on the notice of intent to dismiss, the AAO would dismiss the appeal as abandoned.

More than 33 days have passed and neither the applicant nor counsel has replied to the AAO's February 17, 2010 notice of intent to dismiss.

**ORDER:** The application is automatically terminated as abandoned and the appeal dismissed.

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<sup>2</sup> According to the CSS Settlement Agreement at Part 11, USCIS shall adjudicate Forms I-687 filed under the CSS Settlement in accordance with the provisions of § 245A of the Act, regulations, administrative and judicial precedents which the INS, now USCIS, followed in adjudicating Forms I-687 timely filed during the original Immigration Reform and Control Act (IRCA) filing period. These INS Operations Instructions/administrative precedents noted here are those which were in place during the original IRCA 1987/1988 filing period.