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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**

41

[REDACTED]

FILE:

[REDACTED]

Office: NEWARK

Date:

AUG 24 2010

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. 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.

A handwritten signature in black ink, appearing to read "Perry Rhew".

Perry Rhew
Acting Chief, Administrative Appeals Office

Handwritten initials in black ink, possibly "P.R." or similar.

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, 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) was denied by the director of the Newark office. The Administrative Appeals Office (AAO) summarily dismissed the applicant's appeal. The matter is now before the AAO on a second motion to reopen. The AAO will reject the motion.

The applicant filed a Form I-694, Notice of Appeal to the AAO. On September 22, 2009, the appeal was summarily dismissed by the AAO, after the applicant failed to address the basis for the denial, and failed to submit a brief or any additional evidence. The AAO noted that counsel stated that he would submit a brief or additional evidence within 30 days of receipt of the Record of Proceedings (ROP). The AAO noted that the record reveals that the applicant's FOIA request was processed and responded to on May 18, 2009.¹ The AAO further noted that counsel did not submit a brief or additional evidence on appeal.

Counsel for the applicant filed a motion to reopen, stating that the reason a brief or additional evidence was not submitted was that neither he nor the applicant received the FOIA response. The AAO returned the motion to the applicant, on the basis that legalization applicants are not entitled to file a motion to reopen or reconsider the case.² The applicant resubmitted the motion to reopen, which is currently before the AAO.

While the AAO may *sua sponte* reopen on its own motion a matter previously adjudicated, the record reveals no error in the adjudication of the either the application for temporary residence or the appeal that would warrant reopening.

Accordingly, the motion to reopen will be rejected and the previous decision of the AAO will not be disturbed.

ORDER: The motion to reopen is rejected. This decision constitutes a final notice of ineligibility.

¹ NRC2007068196.

² The AAO's decision dismissing the appeal specifically advises the applicant on the cover page that "...you are not entitled to file a motion to reopen or reconsider your case."