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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:

MSC 05 285 12279  
MSC 09 104 10183-APPEAL

Office: LOS ANGELES

Date:

JAN 29 2010

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. 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.

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, National Benefits Center (NBC). On January 2, 2008, the NBC Director withdrew his February 18, 2005 determination and ordered that the processing of the appeal be continued. The application was denied by the Director, Los Angeles on December 3, 2008. The decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed. The appeal will be rejected as untimely filed.

The director denied the application because the applicant failed to provide evidence that he had resided unlawfully in the United States for the requisite period.

An adverse decision on an application for temporary resident status may be appealed to the AAO; the appeal with the required fee must be filed within 30 days after service of the notice of denial. 8 C.F.R. § 245a.2(p). The date of filing is not the date of mailing, but the date of actual receipt. See 8 C.F.R. § 103.2(a)(7)(i). An appeal that is not timely filed will not be accepted. 8 C.F.R. § 245a.2(p).

In this case, the director issued the notice of denial on December 3, 2008 and mailed it to the applicant's address of record. The appeal was received on January 6, 2009, 34 days later. Therefore, the appeal was untimely filed and shall be rejected.

**ORDER:** The appeal is rejected.