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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W. MS 2090
Washington, DC 20529-2090



**U.S. Citizenship
and Immigration
Services**

L1

DATE: **AUG 30 2011** OFFICE: NATIONAL BENEFITS CENTER

FILE: [REDACTED]

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:

SELF-REPRESENTED

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 dark ink, appearing to read "Perry Rhew".

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 of the National Benefits Center office. The decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

On August 30, 2004, the applicant filed an application for status as a temporary resident status (Form I-687). On May 23, 2007, the director of the National Benefits Center office erroneously denied the I-687 application, finding that the applicant abandoned the application, pursuant to 8 C.F.R. § 103.2(b)(13), by failing to provide documentation establishing his eligibility for temporary resident status.¹ On June 10, 2007, the applicant filed an appeal of the director's decision. The AAO considered the applicant's claim *de novo*, evaluating the sufficiency of the evidence in the record according to its probative value and credibility as required by the regulation at 8 C.F.R. § 245a.2(d)(6).² On November 6, 2009, the AAO fully adjudicated the application on the merits and dismissed the appeal based on the applicant's failure to establish eligibility for temporary resident status.

Subsequently, because the director of the National Benefits Center office erred in denying the application based on abandonment, on October 12, 2010, the director issued a notice advising the applicant of the right to appeal the decision to the Administrative Appeals Office (AAO). On October 22, 2010, the applicant filed a second appeal.

A review of the decision reveals that the AAO accurately set forth a legitimate basis for dismissal of the application. The applicant has not presented new or additional evidence. The appeal must therefore be summarily dismissed.

ORDER: The appeal is summarily dismissed. This decision constitutes a final notice of ineligibility.

¹ On December 14, 2009, the United States District Court for the Eastern District of California ruled that United States Citizenship and Immigration Services (USCIS) may not apply its abandonment regulation, 8 C.F.R. § 103.2(b)(13), in adjudicating legalization applications filed by CSS class members. *See, CSS v. Michael Chertoff*, Case 2:86-cv-01343-LKK-JFM.

² The AAO conducts appellate review on a *de novo* basis. The AAO's *de novo* authority is well recognized by the federal courts. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).