

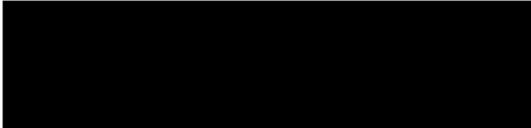
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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W. MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
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Services

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FILE:



Office: LOS ANGELES

Date:

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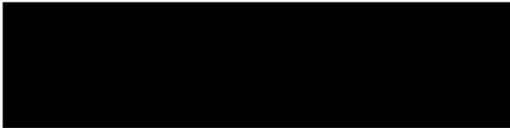
IN RE:

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 [REDACTED] *et al.*, v. *Ridge, et al.*, CIV. NO. S-86-1343-LKK (E.D. Cal) January 23, 2004, and [REDACTED], *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 Los Angeles office. The director of the National Benefits Center rejected the applicant's appeal as untimely. The matter is now before the AAO on a motion to reopen. The AAO will reject the motion.

The applicant submitted a Form I-687, Application for Status as a Temporary Resident under Section 245A of the Immigration and Nationality Act (Act) and a Form I-687 Supplement, CSS/Newman (LULAC) Class Membership Worksheet. On March 28, 2007, the director of the Los Angeles office denied the application, finding that the applicant had not established by a preponderance of the evidence that he had continuously resided in the United States in an unlawful status for the duration of the requisite period. On April 30, 2007, the applicant's Form I-694, notice of appeal, was received by United States Citizenship and Immigration Services (USCIS). On May 2, 2007, USCIS rejected the applicant's notice of appeal because it was not signed by the applicant. On May 8, 2007, the applicant submitted a signed notice of appeal. On May 10, 2007, the applicant's resubmitted notice of appeal was rejected as untimely. On October 29, 2010, the applicant filed a motion to reopen the director's decision, currently before the AAO.

Pursuant to 8 C.F.R. § 103.5(b), motions to reopen legalization proceedings under sections 245A of the Immigration and Nationality Act shall not be considered. The AAO may *sua sponte* reopen and reconsider any adverse decision. Counsel has submitted, with the motion to reopen, an additional statement from the applicant, in which he asserts that the reason he did not timely file the Form I-694 was due to error on the part of his notary. It is noted that any appeal based upon a claim of ineffective assistance of counsel requires: (1) that the claim be supported by an affidavit of the allegedly aggrieved respondent setting forth in detail the agreement that was entered into with counsel with respect to the actions to be taken and what representations counsel did or did not make to the respondent in this regard, (2) that counsel whose integrity or competence is being impugned be informed of the allegations leveled against him and be given an opportunity to respond, and (3) that the appeal or motion reflect whether a complaint has been filed with appropriate disciplinary authorities with respect to any violation of counsel's ethical or legal responsibilities, and if not, why not. *Matter of [REDACTED]* 19 I&N Dec. 637 (BIA 1988), *aff'd*, 857 F.2d 10 (1st Cir. 1988). The applicant has not submitted any of the required documentation to support an appeal based on ineffective assistance of counsel. Furthermore, the AAO only considers complaints based upon ineffective assistance against accredited representatives. Although the applicant was not assisted by an attorney but by a notary, there is no remedy available for an applicant who assumes the risk of authorizing an unlicensed attorney or unaccredited representative to undertake representations on his or her behalf. *See* 8 C.F.R. § 292.1. The AAO only considers complaints based upon ineffective assistance against accredited representatives. *Cf. Matter of [REDACTED]* 19 I&N Dec. 637 (BIA 1988), *aff'd*, 857 F.2d 10 (1<sup>st</sup> Cir. 1988)(requiring an appellant to meet certain criteria when filing an appeal based on ineffective assistance of counsel). The applicant has not submitted any further legal arguments in the

motion to reopen. The applicant has not submitted any additional evidence in the motion to reopen.

Therefore, the AAO finds that the record in this case does not warrant a reopening *sua sponte*.

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

**ORDER:** The motion to reopen is rejected.