

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**

[REDACTED]

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Date:

**DEC 20 2012**

Office: WASHINGTON

FILE:

[REDACTED]

IN RE:

Applicant:

[REDACTED]

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:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office on your appeal. If your appeal was dismissed or rejected, your file has been sent to the National Benefits Center. You no longer have a case pending before this office. If your appeal was sustained or the matter was remanded for further action, your file has been returned to the office that originally decided your case, and you will be contacted. You are not entitled to file a motion to reopen or reconsider your case.

*Elizabeth A. McCormack*

Ron Rosenberg  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** The Director of the Washington District Office denied the application for temporary resident status made 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). The decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected because it was untimely filed and the applicant's prior appeal of the same decision was dismissed.<sup>1</sup>

The director denied the application, finding the applicant had abandoned the application. Because the director erred in denying the application due to abandonment, the director of the National Benefits Center issued a notice advising the applicant of the right to appeal to the AAO. On July 25, 2011, the AAO withdrew the director's decision and issued a notice of intent to deny (NOID), informing the applicant of the deficiencies in the record and providing him with an opportunity to respond. The applicant failed to respond to the AAO's; therefore, the AAO dismissed the appeal on September 23, 2011.

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 denied the application on January 12, 2008 and mailed it to the applicant's address of record and to applicant's counsel. The instant appeal was received on June 6, 2012, more than 33 days later. Therefore, the appeal was untimely filed and must be rejected.

The appeal must also be rejected because the applicant previously filed an appeal on the same decision and the appeal was dismissed. The applicant has filed six appeals and motions on the instant Form I-687 application. An appeal to the NWIRP Special Master remains pending.

**ORDER:** The appeal is rejected.

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<sup>1</sup> Alternatively, if the applicant intended to file a motion on the AAO's decision of September 23, 2011, the AAO would reject it as late. Further, as a CSS/Newman class member, the applicant has no motion rights.