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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
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**U.S. Citizenship
and Immigration
Services**

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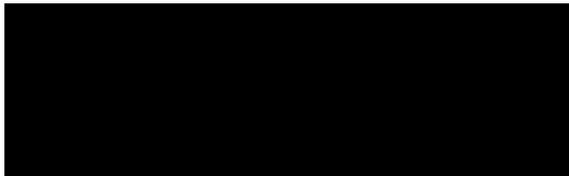


IN RE: Applicant:



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. All documents have been returned to the office that originally decided your case. If your appeal was sustained, or if your case was remanded for further action, you will be contacted. If your appeal was dismissed, 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.

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, Southern Service Center. The decision is now before the Administrative Appeals Office (AAO) on appeal. The decision of the director will be withdrawn and the matter remanded to the director for further action and consideration of Form I-687.

The record indicates that the applicant's Application for Status as a Temporary Resident was approved on April 13, 2005. The director terminated the applicant's temporary resident status because the applicant failed to file Form I-698 within the statutory 43-month filing period.

On appeal, counsel states that neither the applicant nor her previous attorney of record knew that the USCIS (United States Citizenship and Immigration Services) had granted temporary resident status to the applicant. Counsel also states that neither he nor the applicant received the notice of termination (NOT).

In review, the applicant claims that she never received approval of her temporary residence status and therefore, was not obliged to file the Form I-698. On her Form I-687 application, the applicant claims to reside at [REDACTED]. However, the applicant's Form I-797, Notice of Action stating that her temporary resident status was approved was mailed to [REDACTED] and the record does not show that a Form I-688, temporary resident card was ever issued. Absent such knowledge, the AAO finds that the applicant's temporary resident status should not have been terminated for the applicant's failure to timely apply for permanent resident status. Therefore, the case will be remanded for the director to continue adjudication of the Form I-687.

ORDER: The director's decision of January 23, 2009 is withdrawn. The matter is remanded for further action and consideration consistent with the above discussion and entry of a new decision.