



(b)(6)

Date: **APR 23 2013**

Office: NEW YORK

FILE: [REDACTED]

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Status as a Temporary Resident pursuant to Section 245A of 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, your file has been returned to the National Benefits Center. If your appeal was sustained, or if your case was remanded for further action, you will be contacted. If your appeal was dismissed or rejected, 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.

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: In 2005, the applicant filed a Form I-687 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, or *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 National Benefits Center Director issued a notice of intent to deny the application (NOID). In 2006, the New York Field Office Director denied the application, finding the applicant had abandoned his application by failing to respond to the NOID. Counsel for the applicant filed a motion to reopen with the New York office.¹ The director denied the motion. Subsequent to filing the appeal, the applicant submitted through counsel a motion to reopen the matter with the director pursuant to the terms of the settlement agreement which resulted from the class-action lawsuit: *Northwest Immigrant Rights Project, et al. vs. U.S. Citizenship and Immigration Services, et al.*, 88-CV-00379 JLR (W.D. Was.) (NWIRP). On August 12, 2009, the director of the National Benefits Center issued a notice of intent to deny the applicant's NWIRP motion, finding that the applicant had failed to establish his NWIRP class membership.² On September 8, 2009, the director of the National Benefits Center denied the NWIRP motion and application. The applicant appealed the director's decision to the Special Master. On July 12, 2012, the Special Master denied the applicant's appeal.

The applicant filed an appeal of the director's decision to deny his application based upon a finding of abandonment. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

USCIS subsequently informed the applicant that, pursuant to a recent court order, applications for temporary resident status may not be denied based on abandonment. He was informed that he was entitled to file an appeal with AAO, which must be adjudicated on the merits.

The AAO conducts appellate review on a *de novo* basis. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). Following *de novo* review, the AAO found that the director's basis for denial of the Form I-687 was in error. However, the AAO identified alternative grounds for denial of the application. Specifically, the AAO noted that the applicant failed to submit sufficient credible evidence of his continuous residence during the relevant period. The director advised the applicant that he had failed to submit sufficient evidence of his continuous residence in a NOID. In response to the NOID, the applicant submitted an affidavit with content identical to that in a previously submitted affidavit from the same individual.

¹The AAO notes that attorney [REDACTED] has provided a completed Form G-28, Notice of Entry of Appearance as Attorney or Representative. Since [REDACTED] has been suspended from practicing before the Department of Homeland Security effective May 7, 2008, he has not been provided a copy of this decision.

²*Northwest Immigrant Rights Project, et al. vs. U.S. Citizenship and Immigration Services, et al.*, 88-CV-00379 JLR (W.D. Was.) (NWIRP).

As stated in 8 C.F.R. §103.3(a)(3)(iv), any appeal that is filed that fails to state the reason for appeal, or is patently frivolous, will be summarily dismissed. Here, the applicant merely asks the AAO to reconsider the director's decision. Given the applicant's failure to state the reason(s) for the appeal, the appeal will be summarily dismissed.

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