



U.S. Citizenship
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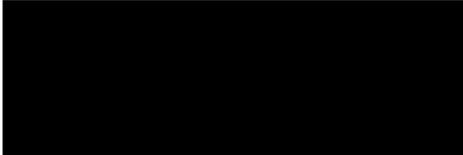
Date: OCT 01 2007

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. Any further inquiry must be made to that office.


Robert P. Wiemann, 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 District Director, Newark, New Jersey, and is now before the Administrative Appeals Office on appeal. The appeal will be rejected.

The director determined the applicant had not demonstrated that he had continuously resided in the United States in an unlawful status since before January 1, 1982 through the date that he attempted to file a Form I-687, Application for Status as a Temporary Resident, with the Immigration and Naturalization Service or the Service, now Citizenship and Immigration Services (CIS), in the original legalization application period of May 5, 1987 to May 4, 1988. Therefore, the director determined that the applicant was not eligible to adjust to temporary resident status pursuant to the terms of the CSS/Newman Settlement Agreements and denied the application.

An adverse decision on an application for temporary resident status may be appealed to the Administrative Appeals Office. Any appeal shall be submitted to the Service Center with the required fee within thirty (30) days after service of the Notice of Denial. An appeal received after the thirty-day period has tolled will not be accepted. See 8 C.F.R. § 245a.2(p). Whenever a person has the right or is required to do some act within a prescribed period after the service of a notice upon him and the notice is served by mail, three days shall be added to the prescribed period. Service by mail is complete upon mailing. 8 C.F.R. § 103.5a(b).

The regulation at 8 C.F.R. § 103.3(a)(2) states an appeal must be accompanied by a nonrefundable fee as set forth in 8 C.F.R. § 103.7. An application, which is submitted with the wrong filing fee, shall be rejected as improperly filed. 8 C.F.R. § 103.2(a)(7)(i).

The director issued a Notice of Denial on June 13, 2006, and mailed it to the counsel's address of record. The appeal was initially received on July 17, 2006; however, it was rejected as the appeal was not accompanied by the appropriate fee. The appeal with the appropriate fee was properly received by CIS on August 1, 2006, 49 days after the decision was issued. Accordingly, the appeal was untimely filed, and must be rejected.

ORDER: The appeal is rejected.