



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 24323992

Date: SEPT. 8, 2022

Service Motion on Administrative Appeals Office Decision

Form I-687, Application for Status as a Temporary Resident

The Applicant seeks review of action terminating her request for status as a temporary resident under section 245A of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1255a, and CSS/Newman Settlement Agreements.¹ The Immigration Reform and Control Act of 1986 created a legalization program, which allows eligible noncitizens who entered the United States before January 1, 1982, and who continuously resided and were physically present in the United States in an unlawful status during specified time periods, to adjust status to temporary residents, if they are admissible to the United States and have not been convicted of a felony or three or more misdemeanors in the United States. The application period for temporary resident status ended on May 4, 1988. However, under the terms of the CSS/Newman Settlement Agreements, eligible individuals who were not able to apply for legalization during the initial application period for certain specific reasons may also adjust status to temporary residents.

The Director of the West Palm Beach, Florida Field Office terminated action on the Applicant's Form I-687 in 2008, after the U.S. Postal Service returned the interview notice sent to her as "undeliverable." In 2020, the Applicant filed the instant appeal requesting that her Form I-687 be reopened and reconsidered. We rejected the appeal as untimely pursuant to 8 C.F.R. § 103.3(a)(2)(v)(B)(1).

For the following reasons we are now reopening this matter *sua sponte* pursuant to the regulations at 8 C.F.R. § 103.5(b) in order to withdraw that decision and to enter a new decision in this case.

The record reflects that the Director terminated action on the Applicant's Form I-687 pursuant to Operating Instruction (OI) 103.2(o). Such termination, however, is without prejudice to renewal of the application upon written request of the applicant or petitioner. Accordingly, it does not constitute a final determination concerning the Applicant's request for temporary resident status and cannot be considered a denial of her Form I-687. Rather, the regulations require that if a Form I-687 is denied an applicant must be informed in writing of the reasons for the denial, and the right to appeal the adverse decision. *See* 8 C.F.R. § 245a.2(o). Here there is no evidence that the Director made an

¹ Settlement agreements 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, which set forth eligibility requirements for temporary residence and class membership.

adverse finding concerning the Applicant's eligibility for temporary resident status and issued a decision advising her of the reasons for such finding and her right to appeal it.

Consequently, as the record does not indicate a decision has been made on the Applicant's Form I-687, her appeal is premature. Instead, we consider the appeal as the Applicant's written request to renew her application for temporary resident status under section 245A of the Act.

Accordingly, we will return the matter to the Director to review the record, to adjudicate the Applicant's Form I-687 on the merits, and to issue a decision.

ORDER: The decision of the Administrative Appeals Office is withdrawn. The matter is remanded to the Director of the West Palm Beach, Florida Field Office for the entry of a decision consistent with the foregoing analysis.