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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, D.C. 20529



U.S. Citizenship
and Immigration
Services

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FILE:



XPW 89 357 00578

Office: CALIFORNIA SERVICE CENTER

Date: **OCT 31 2006**

IN RE:

Applicant:



APPLICATION: Application for Adjustment from Temporary to Permanent Resident pursuant to 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 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.

A handwritten signature in black ink, appearing to read "Robert P. Wtemann".

Robert P. Wtemann, Chief
Administrative Appeals Office

DISCUSSION: The application for adjustment from temporary to permanent resident status was denied by the Director, Western Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected. The AAO will return the matter for further action by the director.

The director denied the application because the applicant's temporary resident status had been terminated, and he was therefore ineligible for adjustment from temporary to permanent resident status.

An adverse decision on an application for adjustment to permanent 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. The thirty-day period for submitting an appeal begins three days after the notice of denial is mailed. 8 C.F.R. § 245a.3(j).

The director issued the Notice of Denial on September 4, 1991. The notice, however, was returned by the post office as undeliverable. The appeal was received on February 18, 1993, 17 months after the decision was issued. Therefore, the appeal was untimely filed, and must be rejected.

It is noted that the applicant submitted a change of address, which was received by the Western Service Center on October 23, 1990. The director, however, did not mail the Notice of Denial to the applicant's new address of record. The untimely filing of the appeal appears to be due to the director's error. It is noted that, pursuant to 8 C.F.R. § 245a.2(q), the director may *sua sponte* reopen any adverse decision. Additionally, the director may certify any such decision to the AAO. *See* 8 C.F.R. § 245a.2(r).

ORDER: The appeal is rejected.