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U.S. Department of Homeland Security

Citizenship and Immigration Services

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ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 Mass, 3/F
425 I Street, N.W.
Washington, D.C. 20536

FILE: [REDACTED] OFFICE: California Service Center

DATE: DEC 04 2003

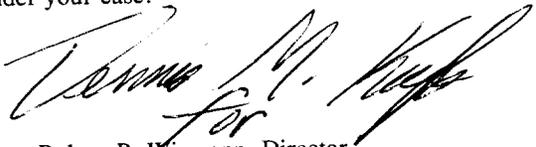
IN RE: Applicant: [REDACTED]

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 [REDACTED]

INSTRUCTIONS:

Attached is the decision rendered on your appeal. The file has been returned to the Service Center that processed your case. If your appeal was sustained, or if your case was remanded for further action, the Service Center will contact you. 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.


Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The termination of temporary resident status by the District Director, San Francisco, is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The district director terminated the applicant's temporary resident status because the applicant had admitted in a sworn statement, taken under oath and in the presence of a Service officer and his own attorney, that he had not entered the United States until June 1982. As such, it cannot be concluded the applicant entered the U.S. prior to January 1, 1982 and has resided continuously in an unlawful status since that date, as required in 8 C.F.R. 245a.2(d).

An alien may appeal a decision to terminate his temporary resident status to the Administrative Appeals Office. Any appeal with the required fee shall be filed with the service center within thirty (30) days after service of the notice of termination. 8 C.F.R. § 245a.2(u)(2)(i). An appeal received after the thirty day period has tolled will not be accepted. 8 C.F.R. § 103.3(a)(3)(iv)(C). 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).

A review of the record shows the Notice of Termination was issued on April 16, 1997. There is no evidence in the record that the notice was returned to Citizenship and Immigration Services (CIS) as undeliverable or that the applicant failed to receive the notice. The appeal was not received until September 5, 2000. The appeal was untimely filed. Therefore, the appeal must be dismissed.

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