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



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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: **JUL 26 2005**

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: 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. If your appeal was sustained, or if your case was remanded for further action, you will be contacted. 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 the applicant's temporary resident status by the Director, California Service Center is before the Administrative Appeals Office on appeal. The appeal will be rejected.

The applicant appears to be represented on appeal; however, no Form G-28, Notice of Entry of Appearance as Attorney or Representative, has been submitted from that individual. Therefore, this notice will be sent to the applicant only.

The director terminated the applicant's temporary resident status because the applicant failed to file the application for adjustment of status from temporary to permanent residence within the 43-month application period.

An adverse decision regarding temporary resident status may be appealed 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. 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 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 director issued the notice of termination on December 19, 2002, and mailed it to the applicant's address of record. On January 21, 2003, 33 days after the notice of termination was issued, the appeal was first received, but without the correct form of payment. The appeal was finally received on March 5, 2003, 76 days after the notice of termination was issued, with the correct form of payment. Therefore, the appeal was untimely filed, and must be rejected.

ORDER: The appeal is rejected.