

**PUBLIC COPY**

U.S. Department of Homeland Security  
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Washington, DC 20529

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U.S. Citizenship  
and Immigration  
Services

L1



FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

JUL 27 2006

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. 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, 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, Chief  
Administrative Appeals Office

**DISCUSSION:** The application for temporary resident status was denied by the Director, Western Service Center, is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The director denied the application because the applicant had not established that he had continuously resided in the United States in an unlawful status since before January 1, 1982 through May 4, 1988.

An adverse decision on an application for temporary resident status may be appealed to the AAO. Any appeal with the required fee shall be filed with the Service Center within thirty (30) days after service of the notice of decision in accordance with the procedures of 8 C.F.R. § 103.3(a). An appeal received after the 30-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 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 Immigration and Naturalization Service or the Service (now Citizenship and Immigration Services or CIS) issued the notice of denial on May 11, 1992, and mailed a copy of this notice to the applicant at his address of record. While the applicant claims that he never received a copy of this notice on appeal, the record shows that the notice was not returned by the United States Postal Service as either unclaimed or undeliverable. The appeal Form I-694 was filed 11 years, 10 months, and 28 days later on April 8, 2004. The record further shows that the director subsequently mailed a copy of the notice of denial as a courtesy on June 24, 2004. Therefore, the appeal was untimely filed and must be rejected.

**ORDER:** The appeal is rejected.