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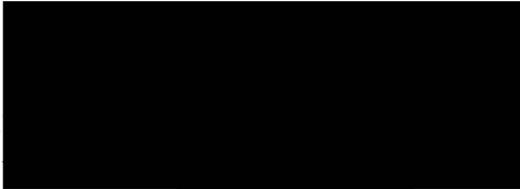
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



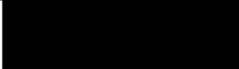
U.S. Citizenship
and Immigration
Services

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FILE:



Office: TEXAS SERVICE CENTER

Date:

NOV 02 2006

XLR 88 007 4020

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, Southern Regional Processing Facility, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The director denied the application because the applicant had failed to establish residence in the United States in an unlawful status from 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 decision on November 9, 1989, and mailed a copy of this notice to the applicant at his address of record. The record shows that the Service's notice was not returned by the United States Postal Service as either unclaimed or undeliverable. The Form I-694, Notice of Appeal, was filed over six years and three months later on February 20, 1996. Therefore, the appeal was untimely filed and must be rejected.

In addition, the regulation at 8 C.F.R. § 103.2(a)(1) provides, in part, that "[e]very application, petition, appeal, motion, request ... shall be executed and filed in accordance with the instructions on the form, such instructions ... being hereby incorporated into the particular section of the regulations in this chapter requiring its submission." *See* 8 C.F.R. § 103.2(a)(7)(i). The bottom portion of the Form I-694, Notice of Appeal, requires a signature on the form when the decision is appealed.

The regulation at 8 C.F.R. § 103.3(a)(1)(iii) states, in pertinent part:

(B) Meaning of affected party. For purposes of this section and §§ 103.4 and 103.5 of this part, *affected party* (in addition to the Service) means the person or entity with legal standing in a proceeding. It does not include the beneficiary of a visa petition.

The regulation at 8 C.F.R. § 103.3(a)(2)(v) states:

Improperly filed appeal – (A) Appeal filed by person or entity not entitled to file it – (1) Rejection without refund of filing fee. An appeal filed by a person or entity not entitled to file it must be rejected as improperly filed. In such a case, any filing fee the Service has accepted will not be refunded.

Only an affected party, a person or entity with legal standing, may file an appeal of an unfavorable decision. The appeal Form I-694 is signed by Brian Jaklich, who lists his relationship to the applicant as "Social Worker/Counselor." The record does not contain a Form G-28, Notice of Entry of Appearance

as Attorney or Representative, authorizing ██████████ to act on behalf of the applicant, nor is Mr. ██████████ recognized as authorized or accredited representative pursuant to 8 C.F.R. § 292.1(a).¹ The appeal Form I-694 has not been filed by the applicant, or by any entity with legal standing in the proceeding. Therefore, the appeal Form I-694 has not been properly filed and must be rejected on this basis as well.

ORDER: The appeal is rejected.

¹ See <http://www.usdoj.gov/eoir/statspub/raroster.htm> for the list of accredited organizations and representatives.