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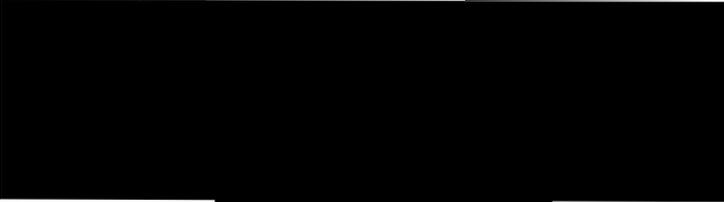
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, D.C. 20529



U.S. Citizenship
and Immigration
Services

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FILE:



WAC 05 017 52309

Office: CALIFORNIA SERVICE CENTER

Date: OCT 04 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. 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 "R. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The termination of temporary resident status by the Director, California Service Center, is before the Administrative Appeals Office on appeal. The appeal will be rejected.

The director terminated the applicant's status because the applicant failed to file the Form I-698, Application for Adjustment of Status from Temporary to Permanent Resident, within the 43-month application period.

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).

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." An applicant or petitioner must sign his or her application or petition. 8 C.F.R. § 103.2(a)(2).

The director issued the Notice of Termination on January 14, 2005, and mailed it to the applicant's address of record. The appeal was initially received by the California Service Center on February 24, 2005; however, it was rejected as it was not signed by the applicant. The appeal was properly filed on March 15, 2005, 60 days after the director's decision. Accordingly, the appeal was untimely filed, and must be rejected.

Assuming, arguendo, the applicant had submitted the appeal with signature on February 24, 2005, the appeal would have still been untimely filed as it was received by the California Service Center 41 days after the decision was issued.

ORDER: The appeal is rejected.