

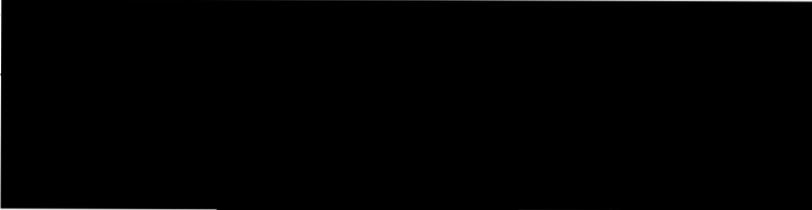
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U.S. Citizenship  
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FILE:



Office: VERMONT SERVICE CENTER

Date: OCT 04 2006

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IN RE:

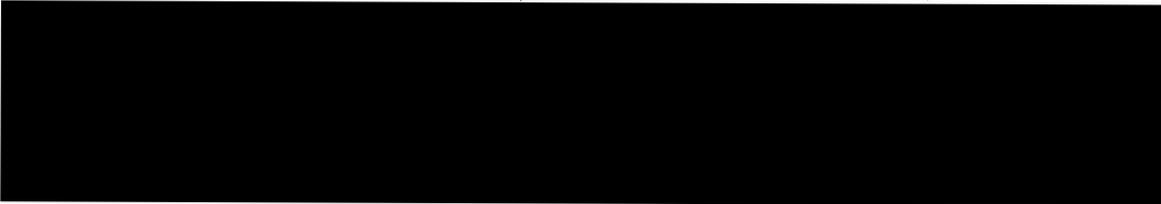
Applicant:



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:



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.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The termination of temporary resident status by the Director, Vermont 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 record reflects that the director sent the Notice of Termination dated August 22, 2001 to the applicant and to former counsel at their addresses of record. The appeal was received by the Vermont Service Center on February 19, 2002, six months after the decision was issued. Accordingly, the appeal was untimely filed, and must be rejected.

It is noted that counsel, on appeal, asserts that the Notice of Termination was not mailed to the applicant until January 14, 2002. As evidence, counsel submits an attached envelope postmarked January 14, 2002. Assuming, arguendo, counsel is correct, the appeal would have still been untimely filed.

**ORDER:** The appeal is rejected.