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U.S. Citizenship  
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FILE:



XSJ 88 080 01006

Office: VERMONT SERVICE CENTER

Date:

OCT 04 2006

IN RE:

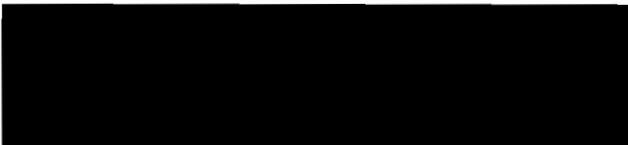
Applicant:



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:



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, Vermont Service Center, is before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected. The AAO will return the matter for further action by the director.

The director terminated the applicant's status because the applicant had been convicted of a felony and was found inadmissible under section 212(a)(2)(A)(i)(II) of the Immigration and Nationality Act.

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 director issued a Notice of Termination on January 7, 1992. The applicant dated the appeal March 20, 1999, and it was received by the Vermont Service Center on March 22, 1999, over seven years after the decision was issued. Accordingly, the appeal was untimely filed, and must be rejected.

It is noted that the record contains documentation establishing the applicant's address in New York at the time the Notice of Termination was issued by the director. The Notice of Termination, however, was not mailed to said address. The untimely filing of the appeal appears to be due to the director's error. Pursuant to 8 C.F.R. § 210.2(g), the director may *sua sponte* reopen any adverse decision. Additionally, the director may certify any such decision to the AAO. See 8 C.F.R. § 210.2(h).

**ORDER:** The appeal is rejected.