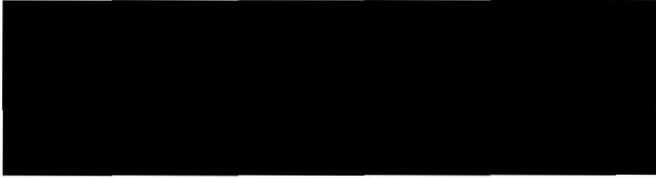




U.S. Citizenship  
and Immigration  
Services



LI

FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: OCT 20 2006  
WAC 05 022 51923

IN RE: Applicant: [REDACTED]

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 director issued a Notice of Termination on February 4, 2005,<sup>1</sup> and mailed it to the applicant's address of record. The envelope containing the appeal was postmarked March 21, 2005, and it was received by the California Service Center on March 22, 2005, 46 days after the decision was issued. Accordingly, the appeal was untimely filed, and must be rejected.

**ORDER:** The appeal is rejected.

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<sup>1</sup> The director inadvertently dated the Notice of Termination February 4, 2004.