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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
XMA 88 149 07087

Office: VERMONT SERVICE CENTER

Date: OCT 27 2006

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.

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 temporary resident 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 the notice of termination on August 1, 2005 and mailed it to the applicant's address of record. The appeal was received on October 17, 2005, 77 days after the director issued his decision. Therefore, the appeal was untimely filed, and must be rejected.

We note that the director indicated that the fee to file an appeal on Form I-694 is \$50.00 in the notice of termination; however, the fee was increased to \$105.00 effective April 30, 2004. *See* 69 Fed. Reg. 20528, 20532 (April 15, 2004).¹ The director's notice of termination was issued on August 1, 2005, more than 15 months after the fee increase took effect.

The applicant submitted Form I-694 appeal on September 23, 2005, 53 days after the director issued his decision. However, the appeal was rejected because the applicant submitted an incorrect fee of \$50.00 pursuant to the instructions of the director. Nonetheless, even had the director advised the applicant of the correct fee, the appeal would still have been untimely filed.

ORDER: The appeal is rejected.

¹ Effective October 26, 2005, the filing fee for Form I-694 is now \$110. *See* 70 Fed. Reg. 56182, 56184 (Sept. 26, 2005).