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U.S. Citizenship
and Immigration
Services

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FILE:

XHU 88 182 4082

Office: TEXAS SERVICE CENTER

Date: SEP 28 2006

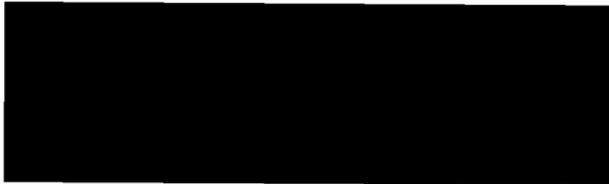
IN RE:

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. The file has been returned to the office that originally decided your case. If your appeal was sustained, or if your case was remanded for further action, you will be contacted. If your appeal was dismissed, you no longer have a case pending before this office, and you are not entitled to file a motion to reopen or reconsider your case.

A handwritten signature in black ink, appearing to read "R. P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The termination of temporary resident status by the Director, Texas Service Center, is now before the Administrative Appeals Office (AAO) 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 to Adjust Status from Temporary to Permanent Resident, within the 43-month application period as required by section 245A(b)(2)(C) of the Immigration and Nationality Act (Act), 8 U.S.C. § 1255a(b)(2)(C).

An adverse decision on an application for temporary resident status may be appealed to the AAO. Any appeal with the required fee shall be filed with the Service Center within thirty (30) days after service of the notice of decision in accordance with the procedures of 8 C.F.R. § 103.3(a). An appeal received after the 30-day period has tolled will not be accepted. *See* 8 C.F.R. § 245a.2(p). Whenever a person has the right or is required to do some act within a prescribed period after the service of 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 Immigration and Naturalization Service or the Service (now Citizenship and Immigration Services or CIS) issued the notice of termination on March 28, 2001, and mailed a copy of this notice to the applicant's attorney at his address of record. The record shows that counsel received this correspondence as a copy of the notice of termination was included with the applicant's Form I-694, Notice of Appeal. The appeal Form I-694 was filed 90 days later on June 26, 2001. Therefore, the appeal was untimely filed and must be rejected.

ORDER: The appeal is rejected.