



U.S. Citizenship
and Immigration
Services

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invasion of personal privacy

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: AUG 03 2007

XOM 88 124 7054

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:

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. 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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The termination of the applicant's 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 temporary resident status because the applicant failed to file the application for adjustment of status from temporary to permanent residence within the 43-month application period.

An adverse decision regarding temporary resident status may be appealed 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. An appeal received after the thirty-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 director issued the notice of termination on March 25, 2005 and mailed it to the applicant's last known address of record. The record shows that the applicant did not notify Citizenship and Immigration Services of his change of address until a Form I-765 was filed in October 2005. The appeal was first received on May 25, 2005, or 61 days after the notice of termination was issued. As the applicant failed to sign the Form I-694, it was returned to him for proper signature. The appeal was ultimately received with a proper signature on June 8, 2005 or 75 days after the notice of termination was issued. Therefore, the appeal was untimely filed, and must be rejected. The AAO notes that even if the petitioner's initial attempt to file the appeal had been successful, it was submitted beyond the allowed statutory period and would also have been deemed untimely filed.

ORDER: The appeal is rejected.