

PUBLIC COPY

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

LI



FILE: [REDACTED]
MSC-04-328-10319

Office: New York

Date: **AUG 15 2007**

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. 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.


Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application for temporary resident status was denied by the Director of the New York District Office and is now before the Administrative Appeals Office on appeal. The appeal will be rejected.

The director denied the application because she determined that affidavits submitted in support of the applicant's claim to have maintained continuous physical presence in the United States from January 1, 1982 to a period of time between May 5, 1987 and May 4, 1988 were not credible. The director noted that she found the affidavits submitted by the applicant not credible because they lacked documentation identifying the affiant, proof that the affiant was in the United States during the statutory period, proof that there was a relationship between the applicant and the affiant such as photos, and a current phone number at which the affiant could be contacted for verification. The director determined that neither the documentation submitted with the applicant's Form I-687 application nor the documentation submitted to rebut her Notice of Intent to Deny that application established that the applicant had proven by a preponderance of the evidence that he had maintained continuous residence in the United States pursuant to 8 C.F.R. § 245a.2(d)(5), 8 C.F.R. § 245a.2(b)(1), and 8 C.F.R. § 245a.2(h).

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). Pursuant to 8 C.F.R. § 103.5a(b), 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. If the last day of the period so computed falls on a Saturday, Sunday or a legal holiday, the period shall run until the end of the next day which is not a Saturday, Sunday, nor a legal holiday. 8 C.F.R. § 1.1(h).

The director issued the notice of decision on June 22, 2006, and mailed it to the applicant's address of record. The appeal was received on July 26, 2006, 34 days after the notice of decision. Therefore, the appeal was untimely filed, and must be rejected.

ORDER: The appeal is rejected.