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U.S. Citizenship
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Services

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FEB 12 2007

FILE: [REDACTED]
XHP 88 514 3095

Office: CALIFORNIA SERVICE CENTER

Date:

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Temporary Resident Status under 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.

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

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 (AAO) 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 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 January 30, 2005, and mailed it to the applicant's address of record, [REDACTED]. The applicant's appeal from the denial decision was not received at the California Service Center until March 10, 2005.

On appeal, the applicant claims that she failed to file a timely appeal because the notice of termination was not mailed from the California Service Center until February 24, 2005. The applicant provides a photocopy of a mailing envelope postmarked February 24, 2005. The envelope is addressed to the applicant at [REDACTED]. However, the applicant does not submit any evidence to establish that the Notice of Termination was mailed in that envelope.

All notices of denial or termination of temporary resident status are mailed to the applicant via certified mail, return receipt requested. The photocopied envelope submitted by the applicant was clearly not mailed to her via certified mail. Furthermore, there is no indication in CIS computer records that the California Service Center was aware of the applicant's current address in Wenatchee, Washington, when the notice of termination was issued. Prior to the filing of her appeal on March 10, 2005, the applicant had not reported any changes of address to CIS since her temporary resident status was approved on April 24, 1989. Therefore, the applicant's failure to receive the notice of termination in sufficient time to file a timely appeal is of her own making. The appeal was untimely filed, and must be rejected.

ORDER: The appeal is rejected.