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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: FEB 22 2007

WAC 99 183 50551

IN RE:

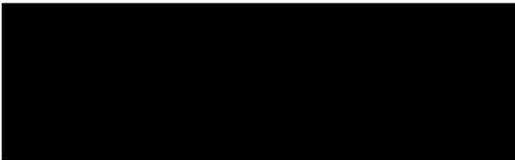
Applicant:



APPLICATION:

Application for Adjustment from Temporary to Permanent Resident Status under
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. 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 Director, California Service Center, denied the application for adjustment to permanent resident status in the legalization program and the matter is now before the Administrative Appeals Office on appeal. The appeal will be rejected.

The director denied the application because the applicant had been convicted of one felony and three or more misdemeanors, and was therefore statutorily ineligible for adjustment of status from temporary to permanent residence.

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 November 16, 2004. The appeal from the denial decision was initially received at the California Service Center on December 9, 2004, but was rejected and returned to counsel on December 15, 2004, for the correct fee of \$105.00. Counsel re-submitted the appeal on December 22, 2004 with a personal check in payment of the appeal fee. The appeal was rejected and returned to counsel again on December 23, 2004, for submission of the fee of \$105.00 in the form of a money order, cashiers check, or bank draft. The applicant's appeal from the denial decision was not properly filed with the Vermont Service Center until January 11, 2005, fifty days after the issuance of the denial decision. Therefore, the appeal was untimely filed, and must be rejected.

ORDER: The appeal is rejected.