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U.S. Citizenship
and Immigration
Services

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FEB 28 2007

FILE:

XHU 87 008 1100

Office: TEXAS SERVICE CENTER

Date:

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. 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, Southern Service Center, is now before the Administrative Appeals Office on appeal. The appeal will be rejected.

The director terminated the applicant's temporary resident status because the applicant tested positive for the human immunodeficiency virus (HIV) and had not submitted documentary evidence to establish that: (1) the danger to the public health of the United States created by the alien's admission is minimal; (2) the possibility of the spread of infection created by the alien's admission to the United States is minimal; and (3) there will be no cost incurred by any government agency without prior consent of the agency.

An adverse decision on an application for 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 denial. The 30-day period for submitting an appeal begins 3 days after the Notice of Decision is mailed. 8 C.F.R. § 245a.20(b)(1) An appeal received after the thirty-day period has tolled will not be accepted. *See* 8 C.F.R. § 245a.2(p).

The director issued the notice of denial on April 15, 1992, and mailed it to the applicant's address of record. The appeal was not received by the Immigration and Naturalization Service, now Citizenship and Immigration Services, until September 10, 1992, almost five months after the issuance of the denial decision. Therefore, the appeal was untimely filed, and must be rejected.

ORDER: The appeal is rejected.