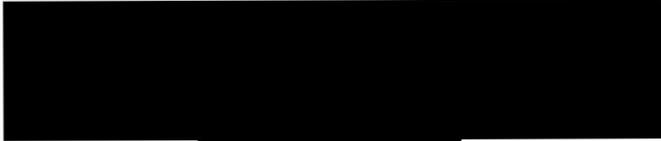




U.S. Citizenship
and Immigration
Services

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prevent clearly unwarranted
invasion of personal privacy

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JAN 04 2007

FILE:

XBK 88 162 07040

Office: VERMONT 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:

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. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The termination of temporary resident status by the Director, Vermont 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 Form I-698, Application for Adjustment of Status from Temporary to Permanent Resident, within the 43-month application period.¹

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 or 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 a 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 June 10, 2005 and mailed it to the applicant's address of record. The applicant submitted an appeal on July 1, 2005. However, the applicant's appeal was submitted on a Form I-694, Notice of Appeal of Decision Under Section 210 or 245A of the Immigration and Nationality Act, that was obsolete and had been replaced by a newer version. Therefore, it was rejected by the service center. The service center received the appeal, filed on a proper I-694 on July 22, 2005, 42 days after the director issued his decision. Therefore, the appeal was untimely filed, and must be rejected.

ORDER: The appeal is rejected.

¹The record contains a Form G-28, Notice of Entry of Appearance as Attorney or Representative, purporting to authorize Nassau Consultation Center to act on behalf of the applicant. The regulation at 8 C.F.R. § 103.2(a)(3) specifies that an applicant may be represented "by an attorney in the United States, as defined in § 1.1(f) of this chapter, by an attorney outside the United States as defined in § 292.1(a)(6) of this chapter, or by an accredited representative as defined in § 292.1(a)(4) of this chapter." In this case, the organization listed on the G-28 is not an authorized representative.