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U.S. Citizenship
and Immigration
Services

LI

[Redacted]

FILE:

[Redacted]

XMI 88 151 3021

Office: TEXAS SERVICE CENTER

Date: JUN 12 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:

[Redacted]

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, Texas 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 from temporary to permanent residence within the 43-month application period.

An adverse decision regarding temporary resident status may be appealed to the AAO. 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 September 13, 2005 and mailed it to the applicant's address of record. The appeal was initially received on October 11, 2005 with the incorrect filing fee of \$385. The Service Center sent counsel a notice rejecting the appeal and citing the correct appeal filing fee of \$105.¹ The applicant's resubmitted appeal with the correct filing fee was received on October 21, 2005. Therefore, the appeal was untimely filed, and must be rejected.

ORDER: The appeal is rejected.

¹ 70 FR 50954 states that fees for appeals filed with the AAO will change from the prior filing fee of \$110 to the new fee of \$385. The fee for filing a Form I-694 from an adverse decision regarding a legalization application was \$105. *See* 8 C.F.R. § 103.7(b)(1). As such, the change in fees from \$110 to \$385 does not apply to legalization applicants.