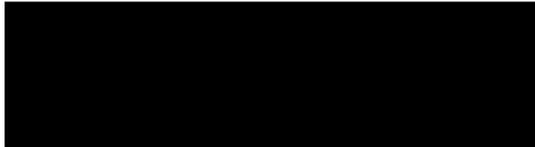




U.S. Citizenship  
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MAR 01 2007

FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

XLA 88 106 4023



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. 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 applicant's temporary resident status<sup>1</sup> was terminated by the Director, California Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be rejected.

The director's notice of termination is dated April 12, 2005. The applicant's status was terminated based on the applicant's conviction of possession of a narcotic controlled substance, a felony offense. In order to properly file an appeal, the regulation at 8 C.F.R. § 245a.2(p) provides that an application for temporary resident status may be appealed to the Administrative Appeals Office within thirty (30) days after service of the notice of denial.

The authority to adjudicate appeals is delegated to the AAO by the Secretary of the Department of Homeland Security (DHS) pursuant to the authority vested in him through the Homeland Security Act of 2002, Pub. L. 107-296. *See* DHS Delegation Number 0150.1 (effective March 1, 2003); *see also* 8 C.F.R. § 2.1 (2003). The AAO exercises appellate jurisdiction over the matters described at 8 C.F.R. § 103.1(f)(3)(iii) (as in effect on February 28, 2003), (with one exception - petitions for approval of schools under § 214.3 are now the responsibility of Immigration and Customs Enforcement (ICE)).

In the present matter, the applicant filed an appeal Form I-694 on November 12, 2004. While the record shows that the director issued a notice of his intent to terminate the applicant's temporary resident status on February 7, 2004, the final notice of termination was not issued until April 12, 2005, five months after the applicant's appeal was received. There is no regulatory provision that would permit the AAO to adjudicate an appeal for a petition or application that has not been adjudicated. Accordingly, the appeal must be rejected.

**ORDER:** The appeal is rejected.

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<sup>1</sup> The record shows that the applicant filed a duplicate Form I-687, Application for Status as a Temporary Resident. The duplicate application was assigned receipt number XLA885082088. The record further shows that the director issued a denial of this application in a decision dated April 23, 1992. There is no evidence that the applicant filed an appeal from the director's denial.