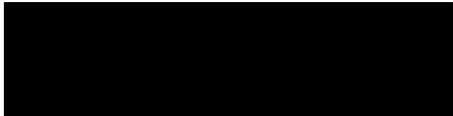


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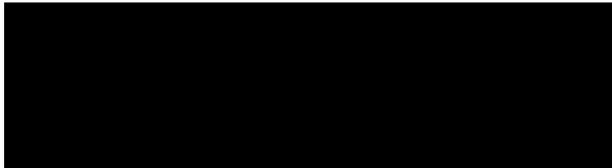
Office: TEXAS SERVICE CENTER

Date:

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:



**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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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 on appeal. The appeal will be rejected.

The director terminated the applicant's temporary resident status because the applicant's application for temporary resident status had been denied, and it had been more than 43 months since approval of the applicant's temporary resident status.

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 May 17, 1999, and mailed it to the applicant's address of record. The applicant's appeal from the denial decision was not received at the Texas Service Center until July 2, 1999.<sup>1</sup> Therefore, the appeal was untimely filed, and must be rejected.

**ORDER:** The appeal is rejected.

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<sup>1</sup> It is noted that the service center director sent a letter to counsel on February 26, 2001, requesting that the applicant submitted a reconstructed appeal form as the original appeal form, filed on July 2, 1999, could not be located. Counsel failed to respond to the notice by submitting a reconstructed appeal form. The director improperly "denied" the appeal on May 30, 2001, because counsel failed to submit a reconstructed appeal. Nevertheless, the fact remains that the appeal was untimely filed, and must be rejected.