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U.S. Citizenship
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Services

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FILE:

XHU 88 101 3009

Office: TEXAS SERVICE CENTER

Date: MAY 15 2007

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 application for temporary resident status was denied by the Director, Texas Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The director denied the application because he determined that the applicant failed to file a Form I-698, Application to Adjust Status from Temporary to Permanent Resident, within the 43-month statutorily prescribed time period.

An adverse decision on an application for 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 denial. 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 October 6, 2005, and mailed it to the applicant's address of record. The appeal was received on November 14, 2005, or 39 days after the director's decision. Therefore, the appeal was untimely filed, and must be rejected.

ORDER: The appeal is rejected.