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**U.S. Citizenship
and Immigration
Services**

LI

FILE:

XLA 88 512 3236

Office: CALIFORNIA SERVICE CENTER

Date: **MAY 24 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:

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 termination of the applicant's temporary resident status by the Director, California 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 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 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 January 10, 2006, and mailed it to the applicant's address of record. The applicant's appeal from the denial decision was initially received at the California Service Center on February 6, 2007. The applicant incorrectly indicated on the appeal form that he was appealing the denial of his application for permanent resident status. The applicant's appeal was rejected and returned to him on February 9, 2007, because, "[y]ou do not have a decision on your legalization or SAW application for which you can appeal." The applicant stated in a letter dated February 16, 2007, that he was appealing the termination of his temporary resident status. The applicant mailed the appeal package back to the California on February; 16, 2007, 37 days after the issuance of the denial decision, and the appeal was not received at the California Service Center until February 27, 2007, 48 days after the issuance of the denial decision. Therefore, the appeal was untimely filed, and must be rejected.

ORDER: The appeal is rejected.