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U.S. Citizenship  
and Immigration  
Services

L1



FILE: [REDACTED]  
SRC 99 220 52417

Office: Texas Service Center

Date: MAY 10 2007

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Adjustment from Temporary to Permanent Resident Status under Section 245A of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1255a

ON BEHALF OF APPLICANT:



**DUPLICATE COPY**

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 adjustment from temporary to permanent 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 adjustment application because the applicant was not eligible for adjustment of status to permanent resident under section 245A of the Act as he had been granted temporary resident status as a special agricultural worker pursuant to section 210 of the Act, not under section 245A of the Act.

An adverse decision on an application to adjust to 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 denial or termination. An appeal received after the thirty-day period has tolled will not be accepted. *See* 8 C.F.R. § 245a.3(j). Whenever a person has the right or is required to do some act within a prescribed period after the service of a 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).

Citizenship and Immigration Services or CIS issued the notice of decision on June 20, 2005, and mailed a copy of this notice to the applicant's address of record. The appeal Form I-694 was filed on August 23, 2005, 64 days after the notice of decision had been issued. Therefore, the appeal was untimely filed and must be rejected.

**ORDER:**                   The appeal is rejected.