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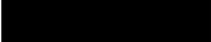
U.S. Citizenship
and Immigration
Services

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OCT 09 2007

FILE: 
MSC-06-088-14626

Office: NATIONAL BENEFITS CENTER

Date:

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. The file has 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 of the National Benefits Center and that decision is now before the Administrative Appeals Office on appeal. The appeal will be rejected.

The director denied the application because he determined that the applicant did not establish, by a preponderance of the evidence, that he maintained continuous residence in the United States from January 1, 1982 to a period of time between May 5, 1987 and May 4, 1988. It is noted here that applicants for Temporary Resident Status bear the burden of proving by a preponderance of the evidence that they have resided in the United States for the requisite period. 8 C.F.R. § 245a.2(d)(5). To meet their burden of proof, applicants must provide evidence of eligibility apart from their own testimony. 8 C.F.R. § 245a.2(d)(6). The regulation at 8 C.F.R. § 245a.2(d)(3) provides an illustrative list of documentation that an applicant may submit to establish proof of continuous residence in the United States during the requisite period. Here, the director noted in his Notice of Intent to Deny (NOID) that the applicant failed to submit evidence apart from his own testimony proving that he had maintained continuous residence in the United States during the requisite period, was continuously physically present in the United States from November 6, 1986 and then for the duration of the requisite period or that he was admissible as an immigrant. The director granted the applicant thirty (30) days within which to submit additional evidence in support of his application. Though the director noted the he did receive additional evidence in support of the application, he found that this evidence was not relevant to the requisite period. Therefore, the director found the applicant did not overcome his reasons for denial as stated in his NOID and denied the applicant's Application for Status as a Temporary Resident.

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 denial. An appeal received after the thirty-day period has tolled will not be accepted. *See* 8 C.F.R. § 245a.2(p). Pursuant to 8 C.F.R. § 103.5a(b), 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. If the last day of the period so computed falls on a Saturday, Sunday or a legal holiday, the period shall run until the end of the next day which is not a Saturday, Sunday, nor a legal holiday. 8 C.F.R. § 1.1(h).

The director issued his decision on August 30, 2006, and mailed it to the applicant's address of record. The applicant's appeal was received Wednesday, October 4, 2006, thirty-five (35) days after the notice of decision was issued. Therefore, the appeal was untimely filed, and must be rejected.

ORDER: The appeal is rejected.