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U.S. Department of Homeland Security  
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U.S. Citizenship  
and Immigration  
Services

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OCT 09 2007

FILE:



MSC-04-339-10164

Office: LOS ANGELES

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 Los Angeles District Office and that decision is now before the Administrative Appeals Office on appeal. The appeal will be rejected.

The director denied the application because she determined that the applicant did not establish, by a preponderance of the evidence, that she maintained continuous residence in the United States from January 1, 1982 to a period of time between May 5, 1987 and May 4, 1988. Specifically, the director noted in her Notice of Intent to Deny (NOID) that at the time of her interview with a CIS officer on June 21, 2005, the applicant was requested to provide evidence that she resided in the United States from 1981 to 1986 including tax returns for the years 1981 to 1986, a Social Security Earning Statement and original or certified court dispositions for all of her arrests as government records indicated the applicant had two previous arrests and subsequent convictions. The director noted that though the applicant did submit income tax returns for the years 1981 to 1986, her Social Security Earnings Statement did not reflect these earnings. The director went on to say that the applicant's affidavit from [REDACTED] restaurant was not found credible because during the applicant's interview she stated that she worked at Hollywood Park Race Track and not that restaurant during the years the affidavit from [REDACTED] states she was working there. The director further noted that the applicant stated to the CIS officer at the time of her interview that she had never been arrested and subsequently submitted a sworn statement in which she claimed never to have been arrested. However, law enforcement records indicate that the applicant has been arrested for petty theft, perjury and for welfare fraud, calling into question other statements made by the applicant. The director stated that for those reasons she found the applicant had not proven by a preponderance of the evidence that she continuously resided in the United States for the duration of the requisite period. She granted the applicant thirty (30) days within which to submit additional evidence in support of her application. In denying the application, the director stated that the information submitted by the applicant was insufficient to overcome her reasons for denial as stated in her NOID.

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 her decision on December 5, 2006, and mailed it to the applicant's address of record. The record indicates the applicant's Form I-694 Notice of Appeal of Decision was first received by the Service on February 14, 2006, fifty-one (51) days after

the director issued her decision. The record shows that on March 9, 2006 the applicant was sent a notice that her Form I-694 was being rejected by the Service because she did not indicate the receipt number of the decision she was appealing. It is noted here that applicants are not required to show this receipt number. Therefore, the AAO will consider the applicant's Form I-694 to have been properly filed on February 14, 2006. While the AAO notes that the applicant has indicated that she took her appeal to the USCIS office in Los Angeles on January 4, 2006, there is no evidence in the record that she did so. Though the applicant has submitted a photocopy of an envelope on which certified mail number [REDACTED] appears, this certified mail number was not verifiable with the United States Postal Service. It is further noted that this photocopy of the envelope bears a handwritten date of 01-04-06. However, this date appears to have been altered. Therefore, the appeal was untimely filed, and must be rejected.

**ORDER:** The appeal is rejected.