



U.S. Citizenship
and Immigration
Services

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[Redacted]

FILE:

[Redacted]

Office: NEWARK

Date: SEP 06 2007

MSC-04-357-10306

IN RE:

Applicant:

[Redacted]

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

ON BEHALF OF APPLICANT:

[Redacted]

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, Newark District Office, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The director denied the application because she found the applicant failed to prove that he resided unlawfully in the United States continuously since before January 1, 1982 through May 4, 1988. The director also stated that the applicant failed to prove he is eligible to file an I-687 under the LULAC class settlement agreement. In this case, the director adjudicated the Form I-687 application on the merits. As a result, the director is found not to have denied the application for class membership.

An adverse decision on an application for 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.2(p). 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).

The record reflects that the director sent her decision of May 4, 2006 to the applicant at his address of record.

The Form I-694 appeal was submitted on June 7, 2006, 34 days after the director's decision. Therefore, the appeal was untimely filed, and must be rejected.

ORDER: The appeal is rejected as untimely filed.