

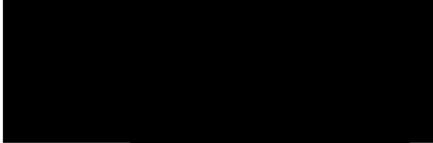
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U.S. Citizenship
and Immigration
Services

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FILE:

Office: LOS ANGELES

Date: SEP 24 2007

MSC-05-231-33148

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:



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 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 as applicant's eligible for adjustment to temporary status must do pursuant to the regulation at 8 C.F.R. § 245a.2(d)(5). Specifically, the director noted that information regarding the applicant's date of entry in affidavits she submitted was not consistent with testimony she gave during her interview with a CIS officer. Further, the director noted that the applicant claimed to have entered the United States with her mother prior to January 1, 1982 when she was approximately two (2) months old. However, the director found that the applicant's mother's record did not indicate that she entered the United States before January 1, 1982, casting doubt on the applicant's claim of having entered the United States at that time as an infant with her mother. Therefore, the director found the applicant was not eligible for temporary resident status under section 245A of the Immigration and Nationality Act and denied her application.

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 March 14, 2006, and mailed it to the applicant's address of record. The applicant's appeal was first received by the Service on April 18, 2006, thirty-six (36) days after the notice of decision was issued. The Service rejected the applicant's appeal at that time, indicating the application was being rejected because it did not contain the receipt number associated with the decision the applicant was appealing. However, it is noted here that the applicant is not required to show the receipt number on her Form I-694 Notice of Appeal of Decision. Therefore, the AAO considers the appeal to have been properly filed on April 18, 2006. However, because the applicant initially filed untimely, her appeal must be rejected.

ORDER: The appeal is rejected.