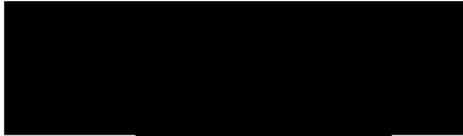


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and Immigration
Services

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FILE:



Office: NATIONAL BENEFITS CENTER

Date:

SEP 27 2007

MSC-06-102-23123

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 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 failed to establish eligibility to qualify for Temporary Resident Status as provided for in Section 245A of the Immigration and Nationality Act (the Act), 8 C.F.R. § 245a and the CSS/Newman Settlement Agreements. Specifically, the director noted in his Notice of Intent to Deny (NOID) that the applicant failed to provide evidence that he entered the United States before January 1, 1982 and then maintained continuous illegal residence in the United States from January 1, 1982 until the time he was turned away by the Service or a QDE when he attempted to apply for legalization during the initial application period between May 5, 1987 and May 4, 1988. The director also noted that the applicant failed to provide evidence that he was admissible to the United States as an immigrant or that he was continuously physically present in the United States except for brief, casual and innocent departures from November 6, 1986 until the date that he or his parent or spouse was turned away by either the INS or a QDE during the original application period. The director granted the applicant thirty (30) days within which to submit additional evidence in support of his application. Though the director noted in his Notice of Decision that he received timely evidence in support of the applicant's application, he stated that this evidence was insufficient to overcome his grounds for denial. He went on to say that this finding was made because evidence did not offer proof that the applicant entered the United States prior to January 1, 1982. Therefore, the director 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 September 13, 2006, and mailed it to the applicant's representative's address of record. The applicant's appeal was received Wednesday, October 18, 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.