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U.S. Citizenship
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Services

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FILE: [REDACTED] Office: NATIONAL BENEFITS CENTER Date: SEP 27 2007
MSC-04-358-10650

IN RE: Applicant: [REDACTED]

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. Specifically, the director noted in his Notice of Intent to Deny (NOID) that applicant had not met his burden of establishing by a preponderance of the evidence that he had maintained continuous residence in the United States during the requisite period. The director granted the applicant thirty (30) days within which to submit additional evidence in support of his application. Though the director noted that the applicant submitted additional evidence in a timely manner, he found that this additional evidence was not relevant to the applicant's application as it did not pertain to the requisite period. Therefore, the director found that this evidence 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 September 5, 2006, and mailed it to the applicant's address of record. The applicant's appeal was first received September 29, 2006, twenty-four (24) days after the director's decision. However, the Service rejected the applicant's Form I-694 Notice of Appeal for two reasons at that time. The rejection notice in the record indicates that the applicant failed to indicate his last name and failed to indicate the receipt number of the decision that the appeal was in reference to. While it is noted by the AAO that applicants are not required to indicate their receipt numbers on their Forms I-694, they are required to indicate their full names on this form. Therefore, the AAO finds that the applicant's Form I-694 was rejected for legitimate reasons. The instructions for filing the form I-694 clearly indicate that once a Form I-694 has been accepted, it will be checked for completeness, including submission of the required initial evidence. If an applicant does not completely fill out the form, or files it without required initial evidence, he or she will not establish a basis for eligibility and the Service may deny his or her Form I-694. Here, rather than denying the applicant's Form I-694, the Service requested that the applicant resubmit that form after completing it. The

applicant's complete, properly filed Form I-694 was received on October 26, 2006, fifty-one (51) days after the notice of decision was issued. Therefore, the appeal was untimely filed, and must be rejected.

ORDER: The appeal is rejected.