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U.S. Citizenship  
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FILE: [REDACTED]  
MSC-05-252-10311

Office: NEWARK, NJ

Date: **SEP 28 2007**

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application for temporary resident status was denied by the Director of the Newark 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 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 found that the applicant did not provide consistent testimony when asked for details regarding how he first entered the United States. She noted that he showed on his Form I-485 that he first entered the United States in July 1980 through Mexico but at the time of his interview with a CIS officer he stated that he first entered the United States through Canada in 1980. The director went on to note that the applicant's current Form I-687 was not complete. In the sections of that form that indicate he should provide information regarding his addresses and employment in the United States, rather than showing those that related to years before 1995, the applicant showed that the adjudicator should refer to his A file to obtain that information. The director went on to say that she did not find that the evidence the applicant submitted in support of his claim of having maintained continuous residence in the United States for the duration of the requisite period established, by a preponderance of the evidence, that he was eligible to adjust to temporary resident status and denied his 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. *See* 8 C.F.R. § 1.1(h).

The director issued her decision on June 15, 2006, and mailed it to the applicant's address of record. The applicant's appeal was received July 24, 2006, thirty-nine (39) days after the notice of decision was issued. Therefore, the appeal was untimely filed, and must be rejected.

**ORDER:** The appeal is rejected.