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**U.S. Citizenship
and Immigration
Services**

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FILE: [REDACTED]
XSI-88-162-1128

Office: CALIFORNIA SERVICE CENTER

Date: **JUL 29 2008**

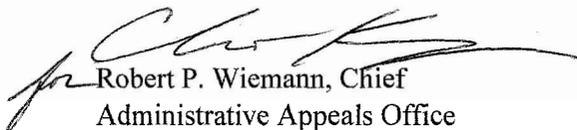
IN RE: Applicant: [REDACTED]

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. All documents have been returned to the office that originally decided your case. If your appeal was sustained, or if the matter 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 pursuant to the terms of the Immigration and Nationality Act (Act) § 245A, was approved by the District Director, California Service Center on December 29, 1992. The director of the California Service Center terminated that status on February 25, 1997. That decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as untimely filed.

The director terminated the applicant's Temporary Resident Status because the applicant failed to submit an application to adjust her status to permanent resident within 43 months. The director stated that the Immigration and Nationality Act (Act) § 245A(b)(2)(c) states that if at the end of the 43rd month beginning after the date an applicant is granted Temporary Resident Status the applicant has not yet filed to adjust status to that of a permanent resident, that applicant's Temporary Resident Status shall be terminated. In this case, the applicant's Temporary Resident Status was granted on December 29, 1992. The applicant applied to adjust to Permanent Resident Status on November 18, 1996, 46 months after her Temporary Resident Status was granted.

An applicant may appeal a decision to terminate his or her Temporary Resident Status to the AAO; the appeal with the required fee must be filed within thirty (30) days after service of the notice of termination. 8 C.F.R. § 245a.2(u)(iv)(2). If the decision, or notice of termination, was mailed, the applicant is afforded an additional three (3) days, and the appeal must be filed within thirty-three (33) days. 8 C.F.R. § 103.5a(b). The date of filing is not the date of mailing, but the date of actual receipt. 8 C.F.R. § 103.2(a)(7)(i).

In this case, the director issued the notice of termination on February 25, 1997 and mailed it to the applicant's address of record. She signed her appeal was on May 16, 1997, 80 days later. Therefore, the appeal was untimely filed and must be rejected.

ORDER: The appeal is rejected.