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**U.S. Citizenship  
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Services**

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FILE: SRC-05-227-50640 Office: TEXAS SERVICE CENTER Date: **JUL 31 2008**

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:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits Center. 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. If your appeal was sustained or remanded for further action, you will be contacted.

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

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The Director, Texas Service Center, terminated the immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as untimely filed.

The director denied the application because the applicant failed to provide evidence that she applied for permanent resident status within 43 months of being granted temporary resident status.

An adverse decision on an application for temporary resident status may be appealed to the AAO; the appeal with the required fee must be filed within 30 days after service of the notice of termination. 8 C.F.R. § 245a.2(p). The date of filing is not the date of mailing, but the date of actual receipt. *See* 8 C.F.R. § 103.2(a)(7)(i). An appeal that is not timely filed will not be accepted. 8 C.F.R. § 245a.2(p).

The record indicates that the director issued the decision on October 6, 2005. It is noted that the director properly gave notice to the applicant that she had 33 days to file the appeal. Although the applicant dated the appeal October 20, 2005, it was received by the director on December 28, 2005, 83 days after the decision was issued. Accordingly, the appeal was untimely filed.

As the appeal was untimely filed, the appeal must be rejected.<sup>1</sup>

**ORDER:** The appeal is rejected.

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<sup>1</sup> The AAO notes that the appeal is written in Spanish and the applicant did not provide a translation. Nevertheless, the applicant has not presented any evidence. The applicant fails to specify how the director made any erroneous conclusion of law or statement of fact in denying the application. Nor has the applicant specifically addressed the basis for denial. As the applicant presents no additional evidence on appeal to overcome the decision of the director, the appeal can also be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(3)(iv).