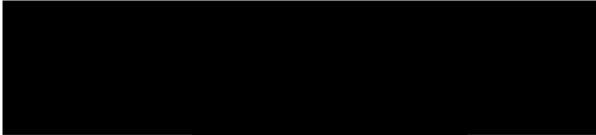




U.S. Citizenship
and Immigration
Services

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Office: CALIFORNIA SERVICE CENTER

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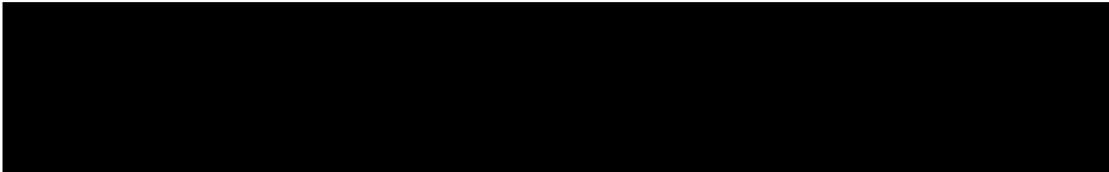
Applicant:



APPLICATION:

Application for Temporary Resident Status under 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. All documents have 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, California Service Center, and is before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

An adverse decision on an application for 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 or termination. The 30-day period for submitting an appeal begins 3 days after the Notice of Decision is mailed. 8 C.F.R. § 245a.20(b)(1). An appeal received after the thirty-day period has tolled will not be accepted. See 8 C.F.R. § 245a.2(p).

The director issued the notice of denial on June 26, 1997. The denial decision was mailed to the applicant at his former address, [REDACTED] but was returned to the California Service Center as undeliverable mail. The applicant's most current address at that time was "[REDACTED]". The applicant reported that address to the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS) on a Form I-131, Application for Travel Document, filed with the California Service Center on October 10, 1996.

The applicant did not file his appeal with the California Service Center until October 29, 2004, more than seven years after the issuance of the denial decision. Therefore, the appeal was untimely filed, and must be rejected.

However, the untimely filing appears to be due to the fact that the denial decision was not mailed to the applicant's most current address. It is noted that, pursuant to 8 C.F.R. § 245a.2(q), the director may *sua sponte* reopen any adverse decision. Additionally, the director may certify any such decision to the AAO. See 8 C.F.R. § 245a.2(r).

Since the issuance of the denial decision dated June 26, 1997, CIS has acquired court documents revealing that the applicant has been convicted of the following offenses:

1. On December 21, 1995, the applicant was convicted in the Municipal Court of East Los Angeles Courthouse Judicial District, County of Los Angeles, State of California, of one count of causing a loud noise in violation of section 415(2) of the California Penal Code, a misdemeanor. (Date of Arrest: November 23, 1995; Case No. [REDACTED])
2. On September 20, 2000, the applicant pled *nolo contendere* (no contest) in the Superior Court of California, County of Los Angeles, to one count of driving under the influence of alcohol with a blood alcohol content of 0.08% or greater in violation of section 23152(b) of the California Vehicle code, a misdemeanor, and to one count of hit and run causing property damage in violation of section 20002(a)

of the California Vehicle Code, also a misdemeanor. (Date of Arrest: June 18, 2000; Case No. [REDACTED])

3. On September 12, 2002, the applicant was convicted in the Superior Court of California, County of Los Angeles, of one count of unlawful obstruction of a peace officer in violation of section 148(a)(1) of the California Penal Code, a misdemeanor. (Date of Arrest: August 12, 2002; Case No. [REDACTED])

The record confirms that the applicant has been convicted of four misdemeanor offenses. Even if the appeal had been timely filed, the applicant would remain statutorily ineligible for temporary resident status due to his record of four misdemeanor convictions. 8 C.F.R. § 245a.2(c)(1).

ORDER: The appeal is rejected as untimely filed.