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U.S. Citizenship
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FILE: [REDACTED]
 XLB 88 509 0073

Office: CALIFORNIA SERVICE CENTER

Date: JUL 11 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. 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 adjustment to permanent resident status was denied by the Director, Western Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The director denied the application because he determined that the applicant first entered the United States on July 1, 1986 and, therefore, failed to establish that he had been unlawfully and continuously residing in the United States since prior to January 1, 1982.

The regulation at 8 C.F.R. § 245a.3(i) states, in pertinent part:

A party affected under this part by an adverse decision is entitled to file an appeal on Form I-694.

The regulation at 8 C.F.R. § 245a.3(j) states that the applicant must comply with the process for filing an appeal as specified in 8 C.F.R. § 103.3(a)(1). Accordingly, 8 C.F.R. § 103.3(a)(1)(iii) states, in pertinent part:

(B) *Meaning of affected party.* For purposes of this section and §§ 103.4 and 103.5 of this part, *affected party* (in addition to the Service) means the person or entity with legal standing in a proceeding.

Only an affected party, a person or entity with legal standing, may file an appeal of an unfavorable decision. In this case the Form I-694, Notice of Appeal of Decision under Section 245A of the Immigration and Nationality Act, is not signed and contains a statement from the applicant's mother asserting her right to file the appeal on behalf of her son. The appeal has not been signed and filed by the applicant, or by any entity with legal standing in the proceeding. Therefore, the appeal has not been properly filed.

Additionally, an adverse decision on an application for temporary resident status may be appealed to the AAO. Any appeal with the required fee shall be filed with the Service Center within thirty (30) days after service of the notice of denial. 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. 8 C.F.R. § 103.5a(b). 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 April 2, 1992 and mailed it to the applicant's address of record. The record contains a postal return receipt signed on April 17, 1992 by the applicant's mother with whom the applicant was claiming to reside at the time the notice was issued. The appeal was received on June 8, 1992.

Therefore, based on the petitioner's failure to submit a timely filed appeal signed by the affected party this appeal must be rejected.

ORDER: The appeal is rejected.