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U.S. Citizenship
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Services

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OCT 12 2007

FILE: [REDACTED]
MSC-05-348-17558

Office: NATIONAL BENEFITS CENTER

Date:

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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application for Temporary Resident Status was denied by the Director of the National Benefits Center and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The director denied the application because he found the evidence submitted with the application was insufficient to establish eligibility for Temporary Resident Status pursuant to the terms of the CSS/Newman Settlement Agreements. It is noted here that applicants for Temporary Resident Status bear the burden of proving by a preponderance of the evidence that they have resided in the United States for the requisite period. 8 C.F.R. § 245a.2(d)(5). To meet their burden of proof, applicants must provide evidence of eligibility apart from their own testimony. 8 C.F.R. § 245a.2(d)(6). The regulation at 8 C.F.R. § 245a.2(d)(3) provides an illustrative list of documentation that an applicant may submit to establish proof of continuous residence in the United States during the requisite period. Here, the director noted in his Notice of Intent to Deny (NOID) that the applicant had failed to submit evidence apart from his own testimony proving that he had maintained continuous residence in the United States during the requisite period, that he was continuously physically present in the United States from November 6, 1986 and then for the duration of the requisite period or that he was admissible as an immigrant. The director granted the applicant thirty (30) days within which to submit additional evidence in support of his application. While the director noted that he did receive evidence in support of the applicant's application, he found that this evidence was insufficient to overcome the grounds for denial as stated in the NOID.

On appeal, the applicant states that he does not have additional evidence to submit in support of his application. He states that he needs a work permit to care for his family and has applied to adjust status in order to continue to work. The applicant provided no additional evidence or explanation to overcome the reasons for denial of his application.

An affected party filing from within the United States has 30 days from the date of an adverse decision to file an appeal. 8 C.F.R. § 245a.2(p). An appeal received after the 30 day period has tolled will not be accepted. Pursuant to 8 C.F.R. § 245a.20(b) (1), 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. 8 C.F.R. § 1.1(h).

The record reflects that the director sent his decision of July 27, 2006 to the applicant at his addresses of record. Citizenship and Immigration Services (CIS) received the appeal thirty-four (34) days later on Wednesday, August 30, 2006. Therefore, the appeal was untimely filed.

As stated in 8 C.F.R. § 103.3(a)(3)(iv), any appeal which is filed that fails to state the reason for appeal, or is patently frivolous, will be summarily dismissed.



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A review of the decision reveals the director accurately set forth a legitimate basis for denial of the application. On appeal, the applicant has not presented additional evidence. Nor has he addressed the grounds stated for denial. Had this appeal been filed timely, it would have been summarily dismissed.

ORDER: The appeal is rejected as untimely filed.