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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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[Redacted]

FILE: [Redacted] MSC-05-147-10302

Office: NEW YORK

Date:

SEP 24 200

IN RE: Applicant: [Redacted]

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:

[Redacted]

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, New York District Office, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The director denied the application because she found the applicant failed to prove by a preponderance of the evidence that she has resided in the United States for the requisite periods, is admissible to the United States under Section 245A of the Immigration and Nationality Act, and is otherwise eligible for adjustment of status under this section.

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. An appeal received after the thirty-day period has tolled will not be accepted. *See* 8 C.F.R. § 245a.2(p). Whenever a person has the right or is required to do some act within a prescribed period after the service of a 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).

The record reflects that the director sent her decision of April 5, 2006 to the applicant at her address of record.

The record indicates the applicant's appeal was initially submitted on May 5, 2006 without the Form I-694. The Form I-694 appeal was properly submitted on May 12, 2006, 37 days after the director's decision. Therefore, the appeal was untimely filed, and must be rejected.

ORDER: The appeal is rejected as untimely filed.