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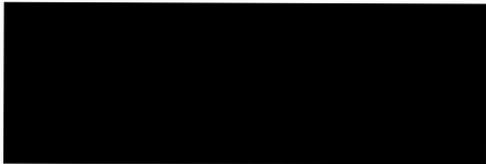
U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529 - 2090



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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date:
XES-88-033-02038

SEP 16 2009

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. 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.

John F. Grissom
Acting Chief, Administrative Appeals Office

DISCUSSION: The termination of the applicant's temporary resident status by the director of the California Service Center is now before the Administrative Appeals Office on appeal. The appeal will be rejected as untimely filed.

The director terminated the applicant's temporary resident status because the applicant failed to file the application for adjustment of status from temporary to permanent residence within the 43-month application period.¹

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 thirty (30) days after service of the notice of denial. 8 C.F.R. § 245a.2(p). The date of filing is not the date of mailing, but the date of actual receipt. 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).

In this case, the director issued the notice of termination on November 22, 2006 and mailed it to the applicant's address of record. The appeal was received on November 8, 2007, 351 days later. Therefore, the appeal was untimely filed and must be rejected.

ORDER: The appeal is rejected.

¹As an additional basis for termination of the applicant's temporary residence, the director also referred to the fact that the applicant was ordered deported on April 8, 1988. However, from a review of the record of proceedings, it is not clear that the applicant was outside of the United States under an order of deportation after January 1, 1982, rendering him unable to establish continuous residence in the United States. Therefore, it is not clear that the applicant was ineligible for temporary resident status on the basis of this order of deportation at the time his application was granted.