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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



U.S. Citizenship
and Immigration
Services

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FILE:

MSC-05-169-13545

Office: MEMPHIS

Date:

SEP 29 2009

IN RE:

Applicant: 

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. If your appeal was sustained, or if your case was remanded for further action, you will be contacted. If your appeal was dismissed or rejected, 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.

John F. Grissom

Acting Chief, Administrative Appeals Office

DISCUSSION: The application for temporary resident status pursuant to the terms of the settlement agreements reached in *Catholic Social Services, Inc., et al., v. Ridge, et al.*, CIV. NO. S-86-1343-LKK (E.D. Cal) January 23, 2004, and *Felicity Mary Newman, et al., v. United States Immigration and Citizenship Services, et al.*, CIV. NO. 87-4757-WDK (C.D. Cal) February 17, 2004 (CSS/Newman Settlement Agreements), was denied by the Director, Memphis, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The director denied the application, finding that the applicant had failed to meet her burden of proving by a preponderance of the evidence that she entered the United States before January 1, 1982 and had thereafter resided continuously in the United States until she or her parent filed or attempted to file the application for temporary resident status.

As stated in 8 C.F.R. § 245a.2(p), 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 30 days after service of the notice of denial. Three days are added if the notice of denial is served by mail. 8 C.F.R. § 103.5a(b). The date of filing is not the date of mailing, but the date of actual receipt. See 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).

Here, the director issued the notice of denial on March 31, 2006 and mailed it to the applicant's address of record. The appeal was received on June 28, 2006, 89 days later. Therefore, the appeal was untimely filed and must be rejected for this reason.

ORDER: The appeal is rejected.