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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  
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Services

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FEB 19 2010

FILE: [REDACTED]  
XPH 88 178 1240

Office: CALIFORNIA SERVICE 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:

[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.

Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, California Service Center, terminated the applicant's temporary resident status because the applicant failed to file an application to adjust from temporary to permanent resident status within the statutory filing period. The matter is now before the Administrative Appeals Office on appeal. The appeal will be rejected.

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 the service of the notice of denial. 8 C.F.R. § 245a.2(p). If the decision, or notice of denial, was mailed, the applicant is afforded an additional three days, and the appeal must be filed within 33 days. 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).

In this case, the director issued the notice of denial on March 7, 2008, and mailed it to the applicant's address of record. The appeal was received on April 11, 2008, 35 days later. Therefore, the appeal was untimely filed and must be rejected.<sup>1</sup>

**ORDER:** The appeal is rejected.

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<sup>1</sup> The applicant states, on appeal, that she was never informed by United States Citizenship and Immigration Services (USCIS) that her application for temporary resident status had been approved, and that she only learned about the approval through her own investigation by filing a request under the Freedom Of Information Act (FOIA). The FOIA request was complied with by USCIS on January 25, 2006, yet the applicant made no attempt to adjust her status until she filed a Form I-698 in July of 2007, almost 18 months after learning of her approval through her FOIA request.