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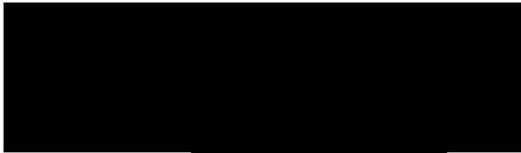
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, D.C. 20529



U.S. Citizenship
and Immigration
Services

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FILE:

XPS 90 201 00281

Office: TEXAS SERVICE CENTER

Date: OCT 31 2006

IN RE:

Applicant:



APPLICATION:

Application for Adjustment from Temporary to Permanent 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. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "R. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application for adjustment from temporary to permanent resident status was denied by the Director, Texas Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be rejected.

The director denied the application because the applicant failed to appear for fingerprinting.

An adverse decision on an application for adjustment to permanent resident status may be appealed to the Administrative Appeals Office. Any appeal shall be submitted to the Service Center with the required fee within thirty (30) days after service of the notice of denial. An appeal received after the thirty-day period has tolled will not be accepted. The thirty-day period for submitting an appeal begins three days after the notice of denial is mailed. 8 C.F.R. § 245a.3(j).

The regulation at 8 C.F.R. § 103.3(a)(2) states an appeal must be accompanied by a nonrefundable fee as set forth in 8 C.F.R. § 103.7. An application, which is submitted with the wrong filing fee, shall be rejected as improperly filed. 8 C.F.R. § 103.2(a)(7)(i). The fee was increased to \$110.00 effective October 26, 2005. *See* 70 Fed. Reg. 56182, 56184 (Sept. 26, 2005). Accordingly, the appeal was improperly filed and will be rejected.

The director issued the Notice of Denial on December 7, 2005, and mailed it to the applicant's address of record. The appeal was initially received by the Texas Service Center on January 31, 2006; however, it was rejected as an incorrect fee was submitted. The appeal with the correct fee was received on February 15, 2006, 70 days after the decision was issued. The appeal was untimely filed and, therefore, must be rejected.

Assuming, *arguendo*, the applicant had submitted the correct fee of \$110.00 on January 31, 2006, the appeal would have still been untimely filed as it was received by the Texas Service Center 55 days after the decision was issued.

As the appeal was untimely and improperly filed, the appeal must be rejected.

ORDER: The appeal is rejected.