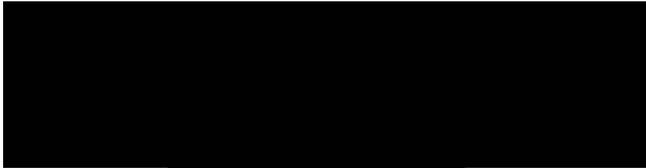




U.S. Citizenship
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Services

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

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FILE: [Redacted]
XDA 88 001 04013

Office: VERMONT SERVICE CENTER

Date: OCT 20 2006

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:



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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application for temporary resident status was denied by the Director, Southern Regional Processing Facility, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected. The AAO will return the matter for further action by the director.

The director denied the application because the applicant had not demonstrated that he had continuously resided in the United States in an unlawful status from before January 1, 1982 through July 1982.

An adverse decision on an application for temporary 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. *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 director issued a Notice of Denial on November 2, 1989. The appeal was received on August 16, 2002. Therefore, the appeal was untimely filed, and must be rejected.

It is noted that the director did not mail the Notice of Denial to the applicant's *actual* address of record. The untimely filing of the appeal appears to be due to the director's error. In addition, the record does not reflect that a Notice of Intent to Deny was issued prior to the Notice of Decision pursuant to 8 C.F.R. § 245a.20(a)(2). It is noted that, pursuant to 8 C.F.R. § 245a.2(q), the director may *sua sponte* reopen any adverse decision. Additionally, the director may certify any such decision to the AAO. *See* 8 C.F.R. § 245a.2(r).

ORDER: The appeal is rejected.