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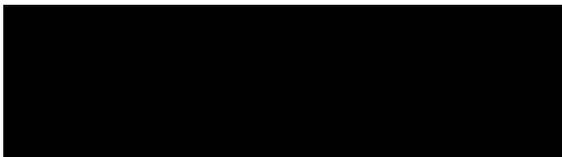
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, D.C. 20529



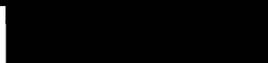
**U.S. Citizenship
and Immigration
Services**

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FILE:



XAT 88 239 00058

Office: TEXAS SERVICE CENTER

Date: **OCT 27 2006**

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:



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 termination of temporary resident status by the Director, Texas Service Center, is before the Administrative Appeals Office on appeal. The appeal will be rejected.

The director terminated the applicant's status because the applicant failed to provide copies of final court dispositions of his arrests and thus failed to assist in verifying information necessary to adjudicate his visa application. 8 C.F.R. § 245a.2(k)(5).

An alien may appeal a decision to terminate his temporary resident status to the Administrative Appeals Office. Any appeal with the required fee shall be filed with the service center within thirty (30) days after service of the notice of termination. 8 C.F.R. § 245a.2(u)(2)(i). An appeal received after the thirty day period has tolled will not be accepted. 8 C.F.R. § 103.3(a)(3)(iv)(C). 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 the Notice of Termination on August 26, 1994 and mailed it to the applicant's address of record. The appeal was received on December 28, 1994, 124 days after the director issued his decision. Therefore, the appeal was untimely filed and must be rejected.

We note that subsequent to the applicant filing his appeal on December 28, 1994, the director issued a request for evidence. However, the record does not reflect that the director reopened the record or rendered any decision after issuing the request for evidence on July 27, 1995. As an appeal was pending, the director was without jurisdiction to issue a request for evidence.

The applicant's criminal history, according to the record, consists of:

September 13, 1986	Driving Under the Influence
August 11, 1989	Simple Battery
April 23, 1990	Driving Under the Influence
May 26, 1990	Driving Under the Influence
March 25, 1991	Driving with License Suspended or Revoked
November 16, 1992	Driving Under the Influence
January 26, 1994	Probation Violation

We note that court dispositions for some of the offenses were submitted after the appeal was filed. Information submitted, however, indicates that the applicant was convicted of at least three misdemeanors, which would make him ineligible for admission into the United States. 8 C.F.R. § 245a.2(c)(1).

ORDER: The appeal is rejected.