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



U.S. Citizenship  
and Immigration  
Services

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FILE:

XAU 88 077 2069

Office: VERMONT SERVICE CENTER

Date SEP 28 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:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has 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.

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Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The termination of temporary resident status by the Director, Vermont Service Center, is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The director terminated the applicant's temporary resident status because the applicant failed to file the Form I-698, Application to Adjust Status from Temporary to Permanent Resident, within the 43-month application period as required by section 245A(b)(2)(C) of the Immigration and Nationality Act (Act), 8 U.S.C. § 1255a(b)(2)(C).

An adverse decision on an application for temporary resident status may be appealed to the AAO. Any appeal with the required fee shall be filed with the Service Center within thirty (30) days after service of the notice of decision in accordance with the procedures of 8 C.F.R. § 103.3(a). An appeal received after the 30-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 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 Immigration and Naturalization Service or the Service (now Citizenship and Immigration Services or CIS) issued the notice of termination on March 22, 1996, and mailed a copy of this notice to the applicant at his address of record. The record shows that the Service's notice was returned by the United States Postal Service as undeliverable mail. The record shows that applicant did not inform the Service of the change in his address of record prior to February 10, 1997, when he attempted to enter the United States at Laredo, Texas. Therefore, the applicant's failure to receive the notice of termination was clearly of his own making.

The applicant initially attempted to file the Form I-694, Notice of Appeal, on May 4, 2001 but failed to include the full and proper fee. The appeal Form I-694 with the full and proper fee was filed on June 13, 2001, more than five years and two months after the notice of termination had been issued. Therefore, the appeal was untimely filed and must be rejected.

**ORDER:** The appeal is rejected.