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U.S. Citizenship
and Immigration
Services

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JUN 12 2007

FILE:

XSW 88 102 1074

Office: TEXAS SERVICE CENTER

Date:

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. 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.

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 on appeal. The appeal will be rejected.

The director denied the application because the applicant failed to appear for two legalization interviews as scheduled.

An adverse decision on an application for temporary resident status may be appealed 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 denial. The 30-day period for submitting an appeal begins 3 days after the Notice of Decision is mailed. 8 C.F.R. § 245a.20(b)(1). An appeal received after the thirty-day period has tolled will not be accepted. *See* 8 C.F.R. § 245a.2(p).

The director issued the notice of denial on November 7, 1989, and mailed it to the applicant's address of record. The denial decision was returned to the Immigration and Naturalization Service (the Service), now Citizenship and Immigration Services, as undeliverable mail. The applicant's appeal from the denial decision was not received until August 9, 1994, almost five years after the issuance of the denial decision.

On appeal, the applicant states that he filed his application for temporary resident status in Florida, but had "moved around quite a bit" and had just come back to Texas from Florida. There is no indication in the record of proceeding that the applicant kept the Service informed of his changes of address. Therefore, the applicant's failure to receive the denial notice in time to file a timely appeal is not due to any error on the part of the Service. The appeal was untimely filed, and must be rejected.

ORDER: The appeal is rejected.