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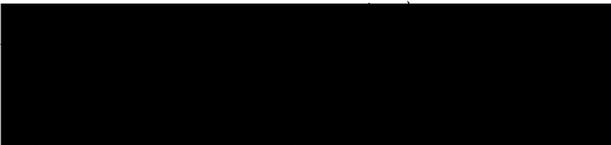
U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
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FILE: [REDACTED]  
XPW-91-024-1759

Office: Texas Service Center

Date: MAR 09 2007

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Adjustment from Temporary to Permanent Resident Status under 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 or rejected, 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.

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 demonstrate continuous residence, medical admissibility, and knowledge of civics and the English language.

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 director issued the notice of decision on October 11, 2005, and mailed it to the applicant's address of record. The appeal was received on December 2, 2005. Therefore, the appeal was untimely filed, and must be rejected.

It is noted that the Director, California Service Center, after receipt of the appeal, indicated in a letter to the applicant that the matter was being reopened. The director issued a new denial notice on January 27, 2006. Pursuant to 8 C.F.R. § 210.2(g), when an appeal to the Administrative Appeals Office has been filed, the service center director may issue a new decision that will reverse the adverse decision. There is no provision in that regulation allowing the director to take another adverse action. The director's actions taken subsequent to the filing of the appeal are therefore withdrawn.

**ORDER:** The appeal is rejected.