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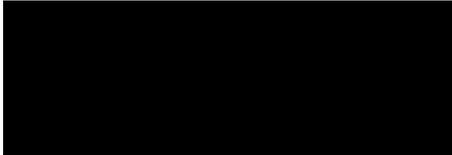
U.S. Department of Homeland Security  
20 Massachusetts Ave. NW, Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

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FILE:

Office: BOSTON, MA

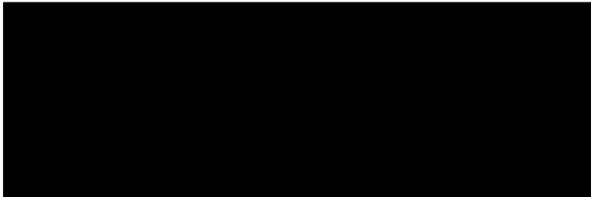
Date: OCT 30 2007

IN RE:



APPLICATION: Application for Permanent Residence Pursuant to Section 245 of the Immigration and Nationality Act, 8 U.S.C. § 1255

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.

A handwritten signature in cursive script, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the District Director, Boston, Massachusetts and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The record reflects that the applicant is a citizen of Trinidad and Tobago and the beneficiary of an approved Form I-140, Immigrant Petition for Alien Worker, filed by his employer. The applicant was found to be inadmissible to the United States pursuant to section 212(a)(2)(A)(i)(I) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(2)(A)(i)(I), for having been convicted of crimes involving moral turpitude. On September 28, 2005, the district director denied the applicant's Form I-485, Application to Register Permanent Resident or Adjust Status. The applicant's Form I-290B, Notice of Appeal was filed on November 8, 2005. His Form I-601, Application for Waiver of Ground of Inadmissibility was not denied until November 13, 2005.

The authority to adjudicate appeals is delegated to the AAO by the Secretary of the Department of Homeland Security (DHS) pursuant to the authority vested in him through the Homeland Security Act of 2002, Pub. L. 107-296. See DHS Delegation Number 0150.1 (effective March 1, 2003); see also 8 C.F.R. § 2.1 (2003). The AAO exercises appellate jurisdiction over the matters described at 8 C.F.R. § 103.1(f)(3)(iii) (as in effect on February 28, 2003). The AAO does not have jurisdiction over this type of I-485 filed under section 245 of the INA.

The AAO notes that the applicant's appeal is also untimely filed. As stated above, on September 28, 2005, the district director denied the applicant's Form I-485, Application to Register Permanent Resident or Adjust Status. The applicant's Form I-290B, Notice of Appeal was filed on November 8, 2005.

In order to properly file an appeal, the regulation at 8 C.F.R. § 103.3(a)(2)(i) provides that the affected party must file the complete appeal within 30 days of after service of the unfavorable decision. If the decision was mailed, the appeal must be filed within 33 days. See 8 C.F.R. § 103.5a(b). The date of filing is not the date of mailing, but the date of actual receipt. See 8 C.F.R. § 103.2(a)(7)(i). It is noted that the district director properly gave notice to the petitioner that he had 33 days to file the appeal. The appeal was received by the district director on November 8, 2005, or 41 days after the decision was issued.

As the AAO does not have jurisdiction over this type of I-485 filed under section 245 of the INA, the appeal will be rejected.

**ORDER:** The appeal is rejected.