



U.S. Citizenship  
and Immigration  
Services

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FILE: MSC-05-208-12024

Office: LOS ANGELES

Date: SEP 07 2007

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. 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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application for temporary resident status was denied by the Director of the Los Angeles District Office and that decision is now before the Administrative Appeals Office on appeal. The appeal will be rejected.

The director denied the application because she determined that the applicant did not establish, by a preponderance of the evidence, that he maintained continuous residence in the United States from January 1, 1982 to a period of time between May 5, 1987 and May 4, 1988. Specifically, the director noted in her decision that during his interview with a CIS officer on August 22, 2005, the applicant stated that he did not come to the United States to reside until 1988. Therefore, the director denied the applicant's Application for Status as a Temporary Resident.

An adverse decision regarding 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. An appeal received after the thirty-day period has tolled will not be accepted. *See* 8 C.F.R. § 245a.2(p). Pursuant to 8 C.F.R. § 103.5a(b), 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. If the last day of the period so computed falls on a Saturday, Sunday or a legal holiday, the period shall run until the end of the next day which is not a Saturday, Sunday, nor a legal holiday. 8 C.F.R. § 1.1(h).

The director issued her decision on March 4, 2006, and mailed it to the applicant's address of record. The appeal was first received untimely on April 11, 2006, thirty-eight (38) days after the notice of decision was issued. The appeal was rejected by the Service because it was unsigned and because the application did not indicate which benefit the appeal was in reference to. The appeal was subsequently filed on May 2, 2006, fifty nine (59) days after the notice of decision was issued. The Service again rejected the appeal because it still did not indicate which benefit the appeal was in reference to. The appeal was then submitted for a third and final time on May 26, 2006, eighty-three (83) days after the notice of decision was issued. Therefore, the appeal was untimely filed, and must be rejected.

**ORDER:** The appeal is rejected.