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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services



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SEP 24 2007

FILE: [Redacted]
MSC-05-342-12516

Office: LOS ANGELES

Date: 9

IN RE: Applicant: [Redacted]

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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application for temporary resident status pursuant to the terms of the settlement agreements reached in *Catholic Social Services, Inc., et al., v. Ridge, et al.*, CIV. NO. S- [REDACTED] January 23, 2004, and *Felicity Mary Newman, et al., v. United States Immigration and Citizenship Services, et al.*, CIV. NO. [REDACTED] February 17, 2004, (CSS/Newman Settlement Agreements) 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 she maintained continuous residence in the United States from January 1, 1982 to a period of time between May 5, 1987 and May 4, 1988. In her decision, the director went on to note that at the time of the applicant's interview with a CIS officer on July 10, 2006 she presented testimony regarding her absences from the United States during the requisite period that was not consistent with what she showed on her Form I-687. The director went on to refer to the regulation at 8 C.F.R. § 245a.2(d)(5), which states that applicants for temporary resident status bear the burden of establishing by a preponderance of the evidence that they maintained continuous unlawful residence in the United States for the duration of the requisite period. Here, the director stated that this applicant did not meet that burden. Therefore, the director denied her application.

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 July 12, 2006, and mailed it to the applicant's address of record. The appeal was first received untimely on Tuesday, August 15, 2006, thirty-four (34) days after the notice of decision was issued. However, the appeal was rejected by the Service because the applicant failed to list her last name, to indicate which application she was appealing, or to indicate her address. The rejection notice also indicated the application was being rejected because it did not contain the receipt number associated with the decision the applicant was appealing. While the applicant is not required to show the receipt number on her Form I-694 Notice of Appeal of Decision, the instructions for filing the Form I-694 clearly indicate that any Form I-694 that is not completely filled out may be denied. Here, the applicant's form was rejected as deficient. The AAO finds the applicant's appeal was rejected as first submitted for legitimate reasons because it was incompletely filled out. The appeal was subsequently filed on September 6, 2006, fifty-six (56) days after the notice of decision was issued. Therefore, the appeal was untimely filed, and must be rejected.

ORDER: The appeal is rejected.