



U.S. Citizenship  
and Immigration  
Services

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FILE: [REDACTED]  
MSC-05-193-11436

Office: LOS ANGELES

Date: SEP 24 2007

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 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 applicant's testimony during his interview with a CIS officer regarding his residences in the United States during the requisite period was not consistent with the residences during that same time period shown in affidavits he submitted in support of his application. Because of these inconsistencies, the director found that the applicant had not met his burden of establishing that he had maintained continuous residence in the United States during the requisite period. 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 10, 2006, and mailed it to the applicant's address of record. The appeal was first received timely on April 7, 2006, twenty-eight (28) days after the notice of decision was issued. However, the appeal was rejected by the Service because it was not submitted with the correct filing fee and 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 his 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 signed or accompanied by the correct fee will be rejected with a notice that the Form I-694 is deficient. As the applicant submitted his Form I-694 without the correct fee, his first submission of this form was not properly filed. Therefore, the applicant's appeal was rejected for legitimate reasons. The appeal was subsequently filed on May 2, 2006, fifty-three (53) days after the notice of decision was issued. Therefore, the appeal was untimely filed, and must be rejected.

**ORDER:** The appeal is rejected.