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U.S. Citizenship
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FILE: [REDACTED]
MSC-05-195-12758

Office: NEWARK

Date: **SEP 28 2007**

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Temporary 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, 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 "D. King" or similar, written over the typed name.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application for temporary resident status was denied by the Director, Newark District Office, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The director denied the application because she found the applicant failed to prove eligibility for temporary residence under Section 245A of the Immigration and Nationality Act.

An adverse decision on an application for 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 or termination. An appeal received after the thirty-day period has tolled will not be accepted. *See* 8 C.F.R. § 245a.2(p). Whenever a person has the right or is required to do some act within a prescribed period after the service of a 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. 8 C.F.R. § 103.5a(b).

The record reflects that the director sent her decision of May 2, 2006 to the applicant at his address of record.

The Form I-694 appeal was submitted on June 18, 2006, 47 days after the director's decision. Therefore, the appeal was untimely filed, and must be rejected.

Although the director sent the decision to the applicant's address of record, it appears the director may have listed the zip code of the applicant's address as "██████" instead of "██████". The untimely filing of the appeal maybe due to the director's error. Pursuant to 8 C.F.R. § 210.2(g), the director may *sua sponte* reopen any adverse decision. Additionally, the director may certify any such decision to the AAO. *See* 8 C.F.R. § 210.2(h).

ORDER: The appeal is rejected as untimely filed.