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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Office of Administrative Appeals MS2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

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FILE:



Office: VERMONT SERVICE CENTER

Date:

XMA 88 808 7022

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:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits Center. 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. If your appeal was sustained or remanded for further action, you will be contacted.

Perry Rhew  
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-86-1343-LKK (E.D. Cal) January 23, 2004, and *Felicity Mary Newman, et al., v. United States Immigration and Citizenship Services, et al.*, CIV. NO. 87-4757-WDK (C.D. Cal) February 17, 2004 (CSS/Newman Settlement Agreements), was denied by the Director, Regional Processing Center, Vermont. The decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The applicant submitted a Form I-687, Application for Status as a Temporary Resident under Section 245A of the Immigration Reform and Control Act of 1986. The director denied the application on November 13, 1989, finding that the applicant had failed to appear for a legalization interview on October 31, 1988 and again on February 23, 1989.

On appeal, the applicant submits copies of receipts, the applicant's paycheck and three envelopes.

An adverse decision on an application for temporary resident status may be appealed to the AAO. Any appeal with the required fee shall be filed with the Service Center or district office issuing such decision within thirty (30) days after service of the notice of decision in accordance with the procedures of 8 C.F.R. § 103.3(a). An appeal received after the 30-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 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 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). An appeal that is not timely filed will not be accepted. 8 C.F.R. § 245a.2(p).

The director issued the notice of decision on November 13, 1989, and mailed a copy of the notice to the applicant at his address of record. In the applicant's letter received October 17, 1991, he stated that he received the notice for the appointment on October 31, 1988 but was afraid to go to the interview by himself. Consequently, the applicant did not appear at the time of the interview. Also, in the letter, the applicant wanted advice on how to proceed with his amnesty application since he had a son born on August 18, 1990 and realized it would be a great hardship to return to Mexico with his family. In response, the United States Citizenship and Immigration Services (USCIS) replied that as no appeal had been filed, its decision of November 13, 1989 remained final. The record shows that the applicant never received the response from the USCIS, as it was mailed to the applicant at his last known address. The record indicates that the applicant's change of address was not reported to the USCIS until February 6, 2007. The Form I-694, Notice of Appeal, was filed on February 6, 2007, approximately 17 years after the notice of decision had been issued. Therefore, the appeal was untimely filed and must be rejected.

**ORDER:** The appeal is rejected.