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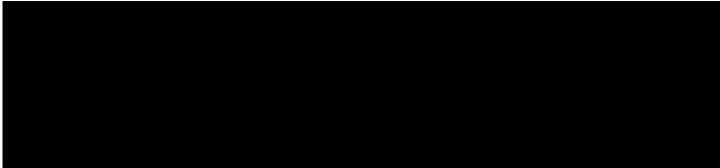
U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
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FILE: [Redacted]
MSC-06-101-16967

Office: LOS ANGELES

Date: **MAR 23 2010**

IN RE: Applicant: [Redacted]

APPLICATION: Application for Adjustment from Temporary to Permanent 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.

Elizabeth McCormack

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, Los Angeles, denied the application for temporary resident status in the legalization program because the applicant failed to establish his continuous residence in the United States during the requisite period. The applicant subsequently appealed the director's decision to the Administrative Appeals Office (AAO). The AAO rejected the appeal, concluding that the appeal had been untimely filed. The matter is now before the AAO on motion. The motion will also be rejected.

Although a Form G-28, Notice of Entry of Appearance as Attorney or Representative, has been submitted, the individual named is not authorized under 8 C.F.R. § 292.1 or 292.2 to represent the applicant. The applicant's representative states that he is authorized under 8 CFR § 245a.3(b)(5)(i)(C) as a qualified designated entity (QDE) to represent the applicant. The AAO disagrees. Neither the representative's name nor organization appears in the Executive Office of Immigration Review's (EOIR) Roster of Recognized Organizations or Accredited Representatives. Therefore, the applicant shall be considered as self-represented and the decision will be furnished only to the applicant.

The applicant must establish entry into the United States before January 1, 1982, and continuous residence in the United States since such date through the date the application is considered filed pursuant to the CSS/Newman Settlement Agreements. Section 245A(a)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1255a(a)(2).

The applicant requested a copy of the record of proceedings through the Freedom of Information Act (FOIA) and the request was satisfied on June 30, 2008 (NRC2008035436).

The AAO determined that the applicant's appeal had been untimely filed and would therefore not be accepted. 8 C.F.R. § 245a.2(p). The AAO noted that 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).¹ The appeal was properly rejected.

Pursuant to the regulation at 8 C.F.R. § 103.5(b), while the AAO may *sua sponte* reopen or reconsider any proceeding within its jurisdiction, motions to reopen a proceeding or reconsider a decision under part 210 or 245a shall not be considered. Accordingly, as motions by the applicant are specifically prohibited by the regulation discussed above, this motion is hereby rejected.

ORDER: The motion is rejected.

¹ The record of proceeding shows that the notice of denial is dated March 9, 2007 and that the appeal was received on April 12, 2007, 34 days later.