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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:

XTO 88 614 2032

Office: CALIFORNIA SERVICE CENTER

Date: MAR 30 2010

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.

Elizabeth McCormack

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application for temporary resident status was denied by the Director, Western Regional Processing Facility. 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 August 22, 1989, finding that the applicant had failed to appear for a legalization interview on September 21, 1988 and February 9, 1989.

The applicant requested a copy of the record of proceedings under the Freedom of Information Act (FOIA). The record reflects that the FOIA request was closed on April 14, 2008. (NRC2008012232).

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 (NOD) on August 22, 1989. The record shows that the decision was mailed to the applicant at his last known address. The record indicates that the applicant's change of address was reported to the United States Citizenship and Immigration Services on February 16, 2006. The Form I-694, Notice of Appeal, was filed on December 28, 2005, over 16 years after the notice of decision had been issued. Therefore, the appeal was untimely filed and must be rejected.

ORDER: The appeal is rejected.