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U.S. Department of Homeland Security
20 Mass. Rm. A3042, 425 I Street, N.W.
Washington, DC 20529



U.S. Citizenship and Immigration Services



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FILE: [Redacted]

Office: Dallas

Date: AUG 25 2004

IN RE: Applicant: [Redacted]

PETITION: Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), amended by LIFE Act Amendments, Pub. L. 106-554. 114 Stat. 2763 (2000).

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 the matter 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

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the Acting District Director, Dallas, Texas, and is now before the Administrative Appeals Office on appeal. The case will be remanded for further action and consideration.

The district director denied the application because for lack of prosecution because the applicant had failed to appear for two scheduled interviews, as required.

All aliens filing applications for adjustment of status with the Service [now, Citizenship and Immigration Services or CIS] under this section must be personally interviewed. An applicant failing to appear for the scheduled interview may, for good cause, be afforded another interview. Where an applicant fails to appear for two scheduled interviews, his or her application shall be denied for lack of prosecution. 8 C.F.R. § 245a.19(a).

On February 4, 2003, the district director sent the applicant a notice indicating he was scheduled to appear for his adjustment interview on March 25, 2003. However, the applicant failed to appear for the interview. The applicant was subsequently notified in writing on May 6, 2003 that he had been scheduled for a second interview on June 16, 2003. The applicant again failed to appear. Accordingly, on September 30, 2003, the district director denied the application for lack of prosecution as the applicant had failed to present himself on two successive occasions for his required adjustment interview.

On appeal, the applicant asserts that his failure to appear for his interviews resulted from his having failed to receive either of the interview notices sent by the district director, and requests that he be rescheduled for his adjustment interview. The applicant's assertion on appeal is supported by the record, which indicates that both the May 6, 2003 interview notice, as well as the July 2, 2003 notice of intent to deny, were returned to the Dallas District Office by the U.S. Postal Service, which stamped the envelopes, "Return to Sender, Insufficient Address." The record shows the district office sent the notices to the same address used by the applicant on his LIFE application as well as on his subsequent I-290B Notice of Appeal. Further examination, however, discloses that, on several forms submitted by the applicant, including his Biographic Information Form G-325A and his I-693 Medical Examination, the applicant's street address -- 1414 South Tennessee -- is followed by "Apartment 14." Yet, this apartment number does not appear to have been included in any of the district office's correspondence to the applicant.

The applicant's failure to receive the district director's interview notices is, in large part, of his own making in neglecting to indicate his *complete* street address on several important CIS documents. Nevertheless, the applicant, on appeal, has reiterated his desire to proceed with his adjustment interview. Accordingly, the district director shall reschedule the applicant for an adjustment interview and issue an appointment notice which includes the applicant's *apartment number* along with his street address.

ORDER: The case is remanded for appropriate action consistent with the foregoing.