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U.S. Citizenship
and Immigration
Services



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DEC 17 2004

FILE: 

Office: LOS ANGELES, CALIFORNIA

Date:

IN RE: Applicant: 

APPLICATION: 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:


INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has been returned to the National Benefits Center. 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.

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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 District Director, Los Angeles, California. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be rejected as untimely filed.

The District Director concluded that the applicant had not established that she resided in the United States in a continuous unlawful status from before January 1, 1982, through May 4, 1988, as required by section 1104(c)(2)(B) of the LIFE Act. Therefore, the District Director concluded the applicant was ineligible for permanent resident status under the LIFE Act and denied the application accordingly. *See District Director's Decision* dated February 11, 2004.

On appeal, counsel asserts that the applicant has proven by preponderance of the evidence that she entered the United States prior to January 1, 1982, and resided continuously until May 5, 1988.

In order to properly file an appeal, the regulation at 8 C.F.R. § 103.3(a)(2)(i) provides that the affected party must file the complete appeal within 30 days after service of the unfavorable decision. If the decision was mailed, the appeal must be filed within 33 days. See 8 C.F.R. § 103.5a(b).

The record indicates that the District Director issued the decision on February 11, 2004. It is noted that the District Director properly gave notice to the applicant that she had 30 days to file the appeal. The Notice of Appeal to the AAO (Form I-290B) was received by Citizenship and Immigration Services (CIS) on March 15, 2004, without the appropriate fee and it was returned to the applicant. The applicant re-submitted the Form I-290B with the appropriate fee. The appeal was received by CIS on April 8, 2004, 57 days after the decision was mailed. Thus, the appeal was not timely filed.

The regulation at 8 C.F.R. 103.2 states in pertinent part:

Applications, petitions, and other documents.

(a) Filing-(1) General. Every application, petition, appeal, motion, request, or other document submitted on the form prescribed by this chapter shall be executed and filed in accordance with the instructions on the form, such instructions (including where an application or petition should be filed) being hereby incorporated into the particular section of the regulations in this chapter requiring its submission. The form must be filed with the appropriate filing fee required by § 103.7. . .

The regulation at 8 C.F.R. § 103.3(a)(2)(v) states in pertinent part:

B) Untimely appeal.

(1) Rejection without refund of filing fee. An appeal which is not filed within the time allowed must be rejected as improperly filed. In such a case, any filing fee the Service has accepted will not be refunded.

The record of proceedings reflects that the appeal of the denial of the application for permanent resident status under the LIFE Act was properly filed on April 8, 2004, 57 days after the decision was issued. As the appeal was untimely filed, the appeal must be rejected.

ORDER: The appeal is rejected as untimely filed.