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



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



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:

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, Director
Administrative Appeals Office

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the Interim District Director, Los Angeles, California, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The Interim District Director determined that the applicant had not established that he 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 Interim District Director concluded the applicant was ineligible for permanent resident status under the LIFE Act and denied the application accordingly. *See Interim District Director's Decision* dated August 1, 2003.

On appeal the applicant states that the interviewing officer was not polite and did not treat him with respect. In addition he states that he believes that the officer did not review all the documentation that was requested from him and he provided.

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 Interim District Director issued the decision on August 1, 2003. It is noted that the Interim District Director properly gave notice to the applicant that he had 30 days to file the appeal. The Notice of Appeal to the AAO (Form I-290B) was forwarded to the AAO in error. The applicant re-submitted the appeal that was properly filed on December 18, 2003, 139 days after the decision was mailed. Thus, the appeal was not timely filed.

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 December 18, 2003, 139 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.