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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

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22

FILE:



Office: New York

Date:

**JAN 06 2005**

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. The file has 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 District Director, New York, New York, and is now before the Administrative Appeals Office on appeal. This matter will be remanded for further action and consideration.

The director determined that the applicant had not demonstrated that he had entered the United States prior to January 1, 1982. The director also found that the applicant had not demonstrated that he had continuously resided in the United States in an unlawful status since before January 1, 1982 through May 4, 1988.

On appeal, the applicant states the decision of the District Adjudication Officer (DAO) is in error because:

1. The DAO's states that my first entry into the United States was on January 11, 1983. This goes contrary to what was presented as evidence. My passport shows a visa issued to me in 1980 and an admission stamp in 1980 in New York. The DAO did not take into account this evidence.
2. The repeated travels I made outside the United States were simply brief and casual absences from the United States and as such can not be grounds for denial of my applicaion.

The regulations at 8 C.F.R. § 245a.20(a)(2) state, in pertinent part:

*Denials.* The alien shall be notified in writing of the decision of denial and of the reason(s) therefore. When an adverse decision is proposed, CIS shall notify the applicant of its intent to deny the application and the basis for the proposed denial. The applicant will be granted a period of 30 days from the date of the notice in which to respond to the notice of intent to deny. All relevant material will be considered in making a final decision.

The record does not reveal that a notification of the director's intent to deny the application was sent to the applicant. Accordingly, the decision of the director is withdrawn. The case will be remanded for the purpose of the issuance of an intent to deny notification to the applicant, should the director decide that is still warranted, and a new decision. The new decision, if adverse to the applicant, shall be certified to this office for review.

**ORDER:** This matter is remanded for further action and consideration pursuant to the above.