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U.S. Department of Homeland Security  
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U.S. Citizenship and Immigration Services

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FILE: [Redacted]

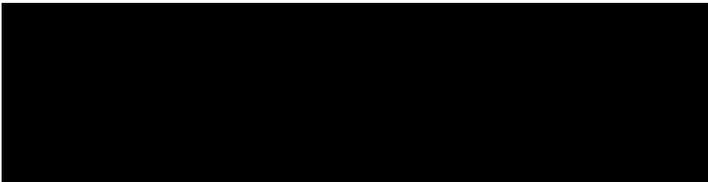
Office: Los Angeles

Date: **JAN 06 2005**

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:



**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 District Director, Los Angeles, California, and is now before the Administrative Appeals Office (AAO) on appeal. This matter will be remanded for further action and consideration.

The district director concluded the applicant had abandoned his application for permanent residence by failing to respond to a request for additional supporting documentation within the requisite time and, therefore, denied the application.

On appeal, the applicant indicates that he personally submitted his response to the request for additional documentation in a timely manner at the Los Angeles District Office.

If all requested initial evidence and requested additional evidence is not submitted by the required date, the application or petition shall be considered abandoned, and accordingly shall be denied. 8 C.F.R. § 103.2(b)(13).

The record reflects that the applicant submitted a Form I-485 LIFE Act application to the Immigration and Naturalization Service, or the Service (now Citizenship and Immigration Services, or CIS) on July 30, 2001. The record shows that the applicant appeared for the requisite interview relating to his LIFE Act application at the Los Angeles District Office on April 1, 2003. At his interview, the applicant was issued a Form I-72, Request for Additional Information, in which he was asked to provide a Social Security earnings statement and other documentation to support his claim of continuous unlawful residence in the United States from prior to January 1, 1982 to May 4, 1988. The applicant was granted until June 30, 2003 to submit the requested documents.

The district director determined that the applicant failed to respond to the Service's request for additional documentation and concluded that the application had been abandoned. Therefore, the director denied the application due to abandonment pursuant to 8 C.F.R. § 103.2(b)(13). A denial due to abandonment may not be appealed, but an applicant may file a motion to reopen or reconsider pursuant to 8 C.F.R. § 103.5(a)(2). 8 C.F.R. § 103.2(b)(15).

However, it must be noted that the district director failed to advise the applicant that he could file a motion to reopen or reconsider in the notice of denial. In addition, a review of the record tends to support the applicant's contention that he did submit a timely response to the request for additional information cited above at the Los Angeles District Office. The record contains a copy of the Form I-72 that had been previously issued to the applicant, as well as copies of the requested documents. The Social Security statements and printouts provided by the applicant all contain dates reflecting that such documents were issued by the Social Security Administration to him on April 30, 2003, May 11, 2003, and June 24, 2003, respectively, just prior to the date, June 30, 2003, he was required to submit such documents to the Service. Furthermore, the photocopy of the Form I-72 provided by the applicant contains a handwritten notation indicating that his response was reviewed by a Service employee prior to the issuing of the notice of denial on August 14, 2003. Therefore, it appears likely that the district director erred in concluding that the applicant had failed to respond to the request for additional documentation. The district director's error, however, does not, and cannot, supersede the regulation regarding the ability of the AAO to consider the appeal.

Accordingly, in order for the district director to consider the documentation the applicant submitted in response to request for additional information, this case will be remanded to the district director to treat the appeal as a

motion. In the event that the application is subsequently denied again, this matter shall be certified to this office for review.

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