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

U.S. Citizenship and Immigration Services

PUBLIC COPY

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FILE: [redacted] Office: Houston Date: JAN 12 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: 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, Houston, Texas, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The district director denied the application because the applicant had failed to establish residence in the United States in an unlawful status from January 1, 1982 through May 4, 1988.

On appeal, the applicant asserts that he failed to receive the Notice of Intent to Deny. The record indicates that the notice of intent was returned by the U.S. Postal Service, which stamped the envelope "Insufficient Address." Upon examination, it appears the applicant's address as set forth on the notice of intent omitted his apartment number. Accordingly, the district director may wish to consider reopening the proceedings and reissuing the notice of intent.

Although a Notice of Entry of Appearance as Attorney or Representative (Form G-28) has been submitted, the individual is not authorized under 8 C.F.R. § 292.1 or § 292.2 to represent the applicant. Therefore, this decision will be furnished to the applicant only.

An affected party filing from within the United States has 30 days from the date of an adverse decision to file an appeal. An appeal received after the 30 day period has tolled will not be accepted. The 30 day period for submitting an appeal begins 3 days after the Notice of Decision is mailed. 8 C.F.R. § 245a.20(b) (1).

If an applicant's last known address of record was outside the United States, and the Notice of Decision was mailed to that foreign address, the appeal must be received by the Service within 60 calendar days after service of the Notice of Decision An appeal received after the 60 day period has tolled will not be accepted. The 60-day period for submitting an appeal begins 3 days after the Notice of Decision is mailed. 8 C.F.R. § 245a.20(b) (2).

The record reflects that the district director sent the Notice of Denial of October 30, 2003 to the applicant at his most current addresses of record. In his Form I-290B Notice of Appeal, the applicant acknowledges having received the denial notice. The applicant's appeal, however, was initially submitted directly to the Chicago Lock Box, rather than to the Houston District Office which denied the application, as required. The appeal was not received by the proper office until *February 23, 2004* – one hundred sixteen (*116*) days after the decision was issued. The appeal was, therefore, untimely filed.

The burden of proving eligibility for the benefit sought remains entirely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. The applicant has not sustained that burden.

ORDER: The appeal is rejected as untimely filed.