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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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PUBLIC COPY

[REDACTED]

FILE: [REDACTED] MSC 02 221 61176

Office: HOUSTON

Date: APR 10 2006

IN RE: Applicant: [REDACTED]

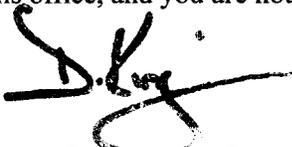
APPLICATION: Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), amended by Life Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000).

ON BEHALF OF APPLICANT:

[REDACTED]

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 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 not demonstrated that he had continuously resided in the United States in an unlawful status from before January 1, 1982 through May 4, 1988.

Counsel indicated on the Form I-290B, Notice of Appeal to the Administrative Appeals Unit, that he needed 90 days in which to submit a brief and/or additional evidence. As of the date of this decision, more than 26 months after the appeal was filed, the AAO has received no additional evidence. This issue is moot, however, as the appeal was untimely filed.

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 three 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 three days after the Notice of Decision is mailed. 8 C.F.R. § 245a.20(b)(2).

The record reflects that the director sent his decision of January 26, 2004 to the applicant at his address of record within the United States. The applicant's appeal was erroneously sent to the AAO and forwarded to the National Benefits Center. The appeal was received at the National Benefits Center on March 2, 2004, 36 days after the director issued her decision. We note that the director's notice of decision specifically advised the applicant that appeal of the decision must be made with the Houston District Office. The record does not indicate that the applicant has properly and timely filed his appeal. Therefore, the appeal is untimely filed.

ORDER: The appeal is rejected as untimely filed.