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U.S. Citizenship
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Services

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DEC 21 2006



FILE:

MSC 03 245 65139

Office: Dallas

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:



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 your case 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, Chief
Administrative Appeals Office

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

The district director concluded the applicant had abandoned his application for permanent residence by failing to appear for the requisite interview pursuant to 8 C.F.R. § 103.2(b)(13) and, therefore, denied the application.

On appeal, counsel requests a copy of the record of proceedings and indicates that a brief will be forthcoming within 30 days of compliance with his request.

The regulation at 8 C.F.R. § 103.2(b)(13) states in pertinent part:

...if an individual requested to appear for fingerprinting or for an interview does not appear, the Service [the Immigration and Naturalization Service or its successor Citizenship and Immigration Services, or CIS] does not receive his or her request for rescheduling by the date of the fingerprinting appointment, or the applicant has withdrawn the application, the application shall be considered abandoned and, accordingly, shall be denied.

The record reflects that the applicant submitted a Form I-485 LIFE Act application to CIS on June 3, 2003. The record shows that the applicant was scheduled to appear for the interview relating to his Form I-485 LIFE Act application at CIS's Dallas, Texas District Office on March 30, 2004. The record further shows that the applicant failed to appear for this interview.

The director determined the application had been abandoned and, therefore, denied the application 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 under 8 C.F.R. § 103.5. 8 C.F.R. § 103.2(b)(15). As a denial due to abandonment cannot be appealed under 8 C.F.R. § 103.2(b)(15), the appeal must be rejected.

ORDER: The appeal is rejected.