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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, D.C. 20529



U.S. Citizenship
and Immigration
Services

L2

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FILE:

MSC 02 214 62467

Office: DENVER

Date: JUL 24 2006

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. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

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, Denver, Colorado, and is now before the Administrative Appeals Office on appeal. The case will be remanded for further action and consideration.

The director denied the application because the applicant had failed to establish that he satisfied the "basic citizenship skills" required under section 1104(c)(2)(E) of the LIFE Act.¹

The regulation at 8 C.F.R. § 245a.20(a)(2) provides that when an adverse decision is proposed, Citizenship and Immigration Services shall notify the applicant of its intent to deny the application and the basis for the proposed denial. The applicant will be granted 30 days from the date of the notice in which to respond to the notice of intent to deny.

The record, however, does not reflect that a Notice of Intent to Deny (NOID) was issued prior to the director's Notice of Decision.

Accordingly, the case is remanded for the issuance of a NOID and for the entry of a new decision in accordance with the foregoing. If the new decision is adverse, it shall be certified to this office.

The NOID should also address whether the applicant has submitted sufficient evidence to establish that he resided in the United States in a continuous unlawful status from before January 1, 1982 through May 4, 1988, as required by section 1104(c)(2)(B) of the LIFE Act, and was continuously physically present in the United States from November 6, 1986 through May 4, 1988, as required by section 1104(c)(2)(C) of the LIFE Act.

The applicant alleges that he first entered the United States in August 1979, and that his only absence from the United States was from June 4, 1987 to June 22, 1987, when he traveled to Mexico to visit his sick mother. However, the record reflects that the applicant was apprehended in 1991, at which time he stated that he had crossed the border without inspection in April 1988. Additionally, the documentary evidence submitted by the applicant lacks sufficient details to establish his continuous residency in the United States during the requisite period.

The NOID should also address whether the applicant is admissible into the United States pursuant to section 212(a) of the Immigration and Naturalization Act. The record reflects that on March 22, 1991, an immigration judge ordered the applicant's deportation, and an order of deportation was issued on March 25, 1991. The record does not indicate that the applicant has applied for, or has been granted, a waiver of inadmissibility.

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

¹ It is noted that an attorney, Brandon Marinoff, who is currently on the list of suspended and expelled practitioners filed a Form G-28, Notice of Entry of Appearance as Attorney or Representative, indicating that he represents the applicant. (See <http://usdoj.gov/eoir/profcond/chart.htm>, accessed on July 7, 2006.) Additionally, the Form G-28 is not signed by the applicant authorizing Mr. Marinoff to act on his behalf. Therefore, CIS may not recognize counsel in this proceeding.