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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

L2



FILE: [REDACTED] MSC 02 242 60002

Office: DENVER

Date: NOV 15 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:

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, 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 (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. The record reflects that the applicant was arrested on November 21, 1992 for driving while intoxicated; on September 3, 1994, April 19, 1998, and June 1, 1998 for driving under the influence of liquor; on September 3, 1994 and April 19, 1998 for traffic offenses; on April 15, 1996 for a misdemeanor offense of harassment; and on April 25, 2000 for assault (menacing) and trespassing. The director also denied the application because the applicant failed to provide copies of his arrest records and court dispositions as requested.

On appeal, the applicant asserts that he did not receive effective assistance of counsel and requested additional time in which to hire a new lawyer and to submit a brief and/or additional evidence. As of the date of this decision, however, more than 23 months after the appeal was filed, no further documentation has been received by the AAO. 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).

The record reflects that the director sent his decision of October 25, 2004 to the applicant at his address of record in the United States. Citizenship and Immigration Services (CIS) received the appeal 36 days later on November 30, 2004. Therefore, the appeal was untimely filed.

Additionally, any appeal or motion based upon a claim of ineffective assistance of counsel requires: (1) that the claim be supported by an affidavit of the allegedly aggrieved respondent setting forth in detail the agreement that was entered into with counsel with respect to the actions to be taken and what representations counsel did or did not make to the respondent in this regard, (2) that counsel whose integrity or competence is being impugned be informed of the allegations leveled against him and be given an opportunity to respond, and (3) that the appeal or motion reflect whether a complaint has been filed with appropriate disciplinary authorities with respect to any violation of counsel's ethical or legal responsibilities, and if not, why not. *Matter of Lozada*, 19 I&N Dec. 637 (BIA 1988), *aff'd*, 857 F.2d 10 (1st Cir. 1988). The applicant has submitted no documentation to establish that he received ineffective assistance of counsel in this proceeding.

ORDER: The appeal is rejected as untimely filed.