

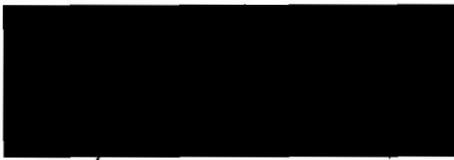


U.S. Citizenship  
and Immigration  
Services

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FILE:



Office: San Francisco

Date: NOV 22 2006

MSC 02 071 64521

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, San Francisco, California, and is now before the Administrative Appeals Office (AAO) on appeal. The case will be remanded for further action and consideration.

The district director determined that the applicant had not demonstrated that he had continuously resided in the United States in an unlawful status since before January 1, 1982 through May 4, 1988. The district director further determined that the applicant had been absent from the United States for more than 180 days during the requisite period. The district director also determined that the applicant was inadmissible under section 212(a)(6)(C)(ii)(I) of the Immigration and Nationality Act (Act) because he had made a false claim to United States citizenship on a document submitted to the Small Business Administration (SBA). The district director determined that the applicant was ineligible to adjust to permanent residence under the provisions of the LIFE Act and denied the application.

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 shows that on January 16, 2003, the district director issued an "Intent to Deny-Request for Evidence." The notice, however, only requested that the applicant provide evidence of his entry into the United States prior to January 1, 1982, provide a list of all absences from this country since such date through the date of the notice May 4, 1988, provide a notarized statement explaining in detail how he first arrived in the United States in November 1981, and provide a copy of the B-2 visitor's visa issued to him in Dubai and the Form I-94, Arrival/Departure Report, for his entry into this country on April 20, 1990. As the notice did not address the evidence furnished initially and indicate the basis for the proposed denial, it cannot be considered a Notice of Intent to Deny.

Accordingly, the case is remanded for the issuance of a Notice to Deny 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.

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