



U.S. Citizenship
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Services

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FILE:



Office: LOS ANGELES

Date: APR 03 2007

MSC 02 222 62984

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. 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, Los Angeles, and is now before the Administrative Appeals Office on appeal. The appeal will be rejected.

The district director denied the application for lack of prosecution. The director noted in the decision that the applicant had failed to appear at scheduled interviews on April 21, 2004 and July 13, 2004.

On appeal, the applicant asserts that she filed a change of address form on March 30, 2004, and did not discover that her case was denied until she applied for advance parole on December 15, 2005. The applicant submits a copy of a letter from USCIS indicating that she reported a change of address to her current address of record on or prior to March 30, 2004.

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 3 days after the Notice of Decision is mailed. 8 C.F.R. §245a.20(b)(1).

The record reflects that the director sent the decision on July 20, 2004 to the applicant at her former address of record. USCIS received the appeal 55 days later on February 8, 2005. Therefore, the appeal was untimely filed, and the AAO must reject it.

Nevertheless, it is noted that the director did not mail the decision to the applicant's address of record. It also appears from the record that notices sent to the applicant informing her of her scheduled interviews on April 21, 2004 and July 13, 2004 were not sent to the applicant's address of record. The record does not contain a copy of a Notice of Intent to Deny (NOID), or indicate that such a notice was sent to the applicant. Pursuant to 8 C.F.R. § 210.2(g), the director may sua sponte reopen any adverse decision. Additionally, the director may certify any such decision to the AAO. See 8 C.F.R. § 210.2(h). Therefore, the director may wish to consider reopening the application and scheduling the applicant for another interview.

ORDER: The appeal is rejected as untimely filed.