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U.S. Citizenship
and Immigration
Services

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APR 05 2007

FILE:

MSC 02 278 60654

Office: Houston

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:

SELF-REPRESENTED

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, Houston, Texas, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The district director determined that the applicant was ineligible to adjust to permanent resident status under the provisions of the LIFE Act because he had been convicted of a felony and two misdemeanors in the United States. *See* section 1104(c)(2)(D)(ii) of the LIFE Act.

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)

Citizenship and Immigration Services or CIS issued the notice of decision on October 5, 2004, and mailed a copy of this notice to the applicant at his most current address of record. The record shows that the notice was not returned as either unclaimed or undeliverable by the United States Postal Service. On appeal, the applicant claimed that he never received correspondence from CIS relating to the denial of his application because he moved to a new address since the date of his interview. However, the record shows that the applicant received his copy of the notice of denial as he includes a copy of this notice with the Form I-694, Notice of Appeal. Although the applicant also submits an undated "notice of change of address" that he indicates was submitted to the National Visa Center in Portsmouth, New Hampshire, the record contains no evidence that the applicant informed CIS of the most recent change in his address of record prior to the filing of his appeal. The record further shows that the applicant initially attempted to file his appeal in a timely manner but this attempted filing was made to an improper CIS office. It is noted that directions contained within the notice of denial dated October 5, 2004, specifically informed the applicant that the Form I-290B, Notice of Appeal, must be submitted to the CIS office that originally rendered the decision.

The applicant properly filed the appeal Form I-694 with the correct CIS office on November 19, 2004, 45 days after the decision was issued. Therefore, the appeal was untimely filed and must be rejected.

ORDER: The appeal is rejected.