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**U.S. Citizenship
and Immigration
Services**

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FILE:



MSC 02 243 60770

Office: NEWARK

Date:

DEC 03 2007

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 National Benefits Center. 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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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, Newark, New Jersey, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The director denied the petition based on the applicant's failure to respond to a previously issued notice of intent to deny.

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). Whenever a person has the right or is required to do some act within a prescribed period after the service of notice upon her and the notice is served by mail, three days shall be added to the prescribed period. Service by mail is complete upon mailing. 8 C.F.R. § 103.5a(b).

The director issued the notice of denial on September 20, 2006 and mailed it to the applicant's address of record. The record shows at least three attempts to file the appeal on January 23, 2007, February 28, 2007, and on April 17, 2007.¹ Regardless of which is ultimately determined as the actual filing date, the appeal was not filed prior to 125 days since the issuance of the notice of denial. Therefore, the appeal was untimely filed, and must be rejected.

ORDER: The appeal is rejected as untimely filed.

¹ It appears that the applicant's first attempt to file the appeal was on December 12, 2006 via hand delivery. However, even if that date were deemed as the official filing date, the appeal would have been filed 83 days after the notice of denial was issued and, therefore, would still have been deemed untimely.