



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**



L2

FILE: [Redacted]
MSC 02 240 63030

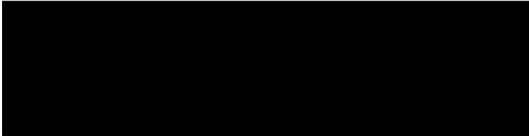
Office: CHICAGO

Date: FEB 26 2007

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:



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, Chicago, Illinois, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected. The AAO will return the matter for further action by the director.

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. Section 1104(c)(2)(B) of the LIFE Act; 8 C.F.R. § 245a.11(b).

On appeal, counsel states that the applicant was not served with a Notice of Intent to Deny, as required by the regulation at 8 C.F.R. § 245a.20(a)(2), or notified of his appellate rights, as required by 8 C.F.R. § 103.3(a)(1)(iii).

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 December 8, 2004 to the applicant at his address of record in the United States. Citizenship and Immigration Services (CIS) received the appeal 63 days later on February 9, 2005. Therefore, the appeal was untimely filed and must be rejected.

Nonetheless, the record reveals that the director failed to comply with the regulations at 8 C.F.R. § 245a.20(a)(2) and 8 C.F.R. § 103.3(a)(1)(iii). While the AAO has not jurisdiction over a rejected appeal, it is noted that, pursuant to 8 C.F.R. § 245a.20(c), 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. § 245a.20(d).

ORDER: The appeal is rejected as untimely filed.