



U.S. Citizenship
and Immigration
Services

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FILE:

MSC 02 192 61415

Office: CHICAGO

Date: FEB 26 2007

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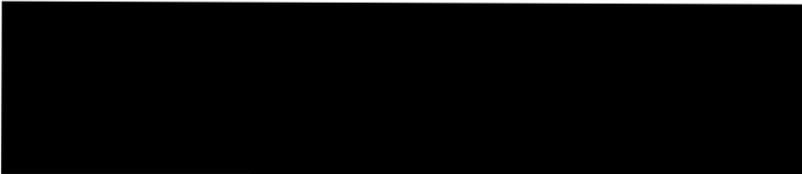
IN RE:

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. 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 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 evidence submitted by the applicant substantiates his claim of residing in the United States for the prescribed period. Counsel submits a brief in support of the appeal.

The Form I-290B, Notice of Appeal to the Administrative Appeals Unit, is not signed. The regulation at 8 C.F.R. § 103.2(a)(1) provides, in part, that “[e]very application, petition, appeal, motion, request . . . shall be executed and filed in accordance with the instructions on the form, such instructions . . . being hereby incorporated into the particular section of the regulations in this chapter requiring its submission.” The instructions at item six on the Form I-290B specifically require a signature on this form when the decision is appealed.

As the Form I-290B was not signed by applicant or anyone authorized to act on his behalf in accordance with 8 C.F.R. § 103.2(a)(3), the appeal has not been properly filed, and must be rejected.

Additionally, the appeal was untimely submitted. 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 May 20, 2004 to the applicant and counsel at their addresses of record. Citizenship and Immigration Services (CIS) received the appeal 75 days later on August 3, 2004. A copy of the envelope reflects that the notice was mailed on May 24, 2004. Counsel asserts on the Form I-290B, Notice of Appeal to the Administrative Appeals Unit, that the notice was received on June 28, 2004. Nonetheless, an appeal must be filed within 30 days after service of the Notice of Decision (33 days if mailed). Service by mail is complete upon mailing. 8 C.F.R. § 103.5a(b).

The record also reflects that the applicant filed another Form I-687, Application for Status as a Temporary Resident, on December 5, 2004. The record does not reflect that the district office has finally adjudicated this Form I-687 application, and it is not at issue in this decision.

ORDER: The appeal is rejected.