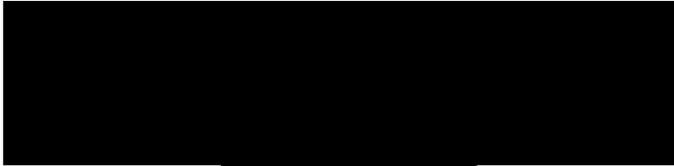


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U.S. Citizenship
and Immigration
Services

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FILE: [Redacted] MSC 02 204 63195

Office: CHICAGO

Date: JUL 06 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. Any further inquiry must be made to that office.


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 on appeal. The case will be remanded for further action and consideration.

The director denied the application because the applicant had not demonstrated that she had continuously resided in the United States in an unlawful status since before January 1, 1982 through May 4, 1988.

The regulation at 8 C.F.R. § 245a.20(a)(2) provides that when an adverse decision is proposed, Citizenship and Immigration Services shall notify the applicant of its intent to deny the application and the basis for the proposed denial. The applicant will be granted 30 days from the date of the notice in which to respond to the notice of intent to deny.

The record, however, does not reflect that a Notice of Intent to Deny was issued prior to the director's Notice of Decision.

Accordingly, the case is remanded for the issuance of a Notice of Intent to Deny and for the entry of a new decision in accordance with the foregoing. If the new decision is adverse, it shall be certified to this office.

On remand, the director should address the applicant's absences from the United States.

"Continuous unlawful residence" is defined in the regulations at 8 C.F.R. § 245a.15(c)(1), as follows:

Continuous residence. An alien shall be regarded as having resided continuously in the United States if:

- (1) No single absence from the United States has exceeded *forty-five (45) days*, and the aggregate of all absences has not exceeded one hundred and eighty (180) days between January 1, 1982, and May 4, 1988, unless the alien can establish that due to *emergent reasons*, his or her return to the United States could not be accomplished within the time period allowed. [Emphasis added.]

On her Form I-687, Application for Status as a Temporary Resident, the applicant stated that she traveled to India several times between 1982 to 1987, including an absence from January 20 to March 30, 1984. On remand, the director should address whether this extended absence was due to emergent reasons.

The record reflects that the applicant filed another Form I-687 on May 2, 2005, which was denied by the director on September 27, 2005. The denial of that application is not at issue in this decision.

ORDER: This matter is remanded for further action and consideration pursuant to the above.