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

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FILE:



Office: HOUSTON

Date:

JUL 12 2007

MSC 02 074 62747

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. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

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, Houston, Texas. A subsequent appeal was rejected by the Administrative Appeals Office (AAO). On May 16, 2007, the AAO reopened its decision and, pursuant to 8 C.F.R. § 103.5(a)(5)(ii), afforded the applicant 30 days in which to supplement the record. The appeal will be rejected.

The record reflects that on April 27, 2005, the district director denied the application due to abandonment because the applicant had failed to appear for his scheduled interviews.

On February 28, 2007, the AAO rejected the appeal, finding that it did not have jurisdiction in the matter. The decision, however, was issued under an incorrect alien registration number. Accordingly, the AAO reopened the proceedings, and granted the applicant 30 days from May 16, 2007, to respond to the AAO's notice of motion. To date, no correspondence has been presented by the applicant.

The regulation at 8 C.F.R. § 103.2(b)(13) provides that if an individual requested to appear for an interview and Citizenship and Immigrations Services does not receive the individual's request for rescheduling by the date of the interview, the application shall be considered abandoned, and accordingly, shall be denied. A denial due to abandonment may not be appealed, but an applicant may file a motion to reopen under 8 C.F.R. § 103.5. 8 C.F.R. § 103.2(b)(15).

There is no appeal of the director's decision in the present matter. Nevertheless, the record was forwarded to the AAO for adjudication. The director's error, however, does not, and cannot, supersede the regulation regarding the ability of the AAO to consider the appeal. As there is no appeal of the decision in the present matter, the appeal will be rejected.

The record does reflect that counsel submitted a *timely* motion to reopen/reconsider, which was received at the Missouri Service Center on May 20, 2004. As such, this matter falls within the jurisdiction of the Service Center.

ORDER: The appeal is rejected.