



U.S. Citizenship
and Immigration
Services

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prevent clearly unwarranted
invasion of personal privacy

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[Redacted]

FILE:

MSC 02 245 60575

Office: DALLAS

Date:

JUL 12 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:

[Redacted]

APPLIC COM 4

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, Los Angeles, California, 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 director concluded that the applicant had not established that he resided in the United States in a continuous unlawful status from before January 1, 1982 through May 4, 1988, as required by section 1104(c)(2)(B) of the LIFE Act, and was continuously physically present in the United States from November 6, 1986 through May 4, 1988, as required by section 1104(c)(2)(C) of the LIFE Act.

On appeal, the applicant stated that emergent reasons for his absence from the United States were not considered. The applicant submits additional documentation in support of the appeal.

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 regulation at 8 C.F.R. § 103.2(a)(7) provides that an application or petition that is submitted with the wrong filing fee shall be rejected as improperly filed.

The record reflects that the director sent her decision of December 12, 2005 to the applicant at his address of record in the United States. While the director indicated in the notice of denial that the fee to file an appeal on Form I-290B, Notice of Appeal to the Administrative Appeals Unit, is \$110.00, that fee was increased to \$385.00 effective September 25, 2005. *See* 8 C.F.R. § 103.7(b)(3). The director's notice of denial was issued on December 12, 2005, more than two months after the fee increase took effect.

The applicant submitted his Form I-290B appeal on January 12, 2006; however, it was rejected because the applicant submitted an incorrect fee of \$110.00 pursuant to the instructions of the director. The appeal was filed with the correct fee of \$385.00 on January 27, 2006, 46 days after the director's decision. Therefore, the appeal was untimely filed, and must be rejected.

The untimely filing appears to be due to the director's incorrect advice. 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.