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U.S. Citizenship
and Immigration
Services

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FILE:

MSC 02 017 62374

Office: HOUSTON

Date: JUN 18 2007

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: On July 14, 2004, District Director, Houston, Texas denied the application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act. The director reopened the decision on August 18, 2004 pursuant to 8 C.F.R. § 103.5(a)(5)(ii) and again denied the application. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The district director determined that the applicant had been convicted of three or more misdemeanors and therefore, pursuant to 8 C.F.R. § 245a.18(a), was inadmissible to the United States. Accordingly, the director denied the application for adjustment of status as a permanent resident.

On March 2, 2004, the director issued a Notice of Intent to Deny (NOID), informing the applicant that the record reflected that he had been convicted of two misdemeanor offenses of water pollution and one misdemeanor offense of prostitution. The director denied the application on July 14, 2004 because the applicant had not responded to the NOID. The director later determined, however, that the applicant had submitted a response to the NOID in the form of a Form I-290B, Notice of Appeal to the Administrative Appeals Unit, on March 30, 2004 in which he requested an additional 60 days in which to respond to the NOID. Accordingly, the director reopened his decision on August 18, 2004 and again denied the application, finding that the applicant was inadmissible to the United States under 8 C.F.R. § 245a.18(a). The director, however, failed to notify the applicant of his appellate rights and forwarded the March 30, 2004 Form I-290B to the AAO.

However, there was no decision from which the applicant could have appealed as of the date the Form I-290 was submitted to the district office. Accordingly, there is no proper appeal before the AAO, and the Form I-290B must be rejected as prematurely filed.

ORDER: The appeal is rejected as prematurely filed.