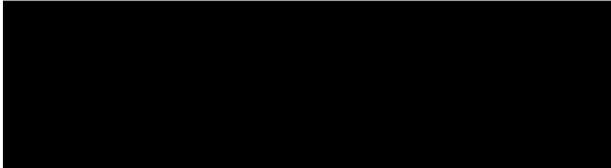




U.S. Citizenship
and Immigration
Services

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invasion of personal privacy

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FILE: MSC 01 299 60355 Office: SAN FRANCISCO Date: JUN 28 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. 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, San Francisco, California, and is now before the Administrative Appeals Office (AAO) on appeal. The case will be remanded for further action and consideration.

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 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, the 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 indicates that on May 22, 2002, the director issued an "Intent to Deny-Request for Evidence." The notice, however, only requested that the applicant to provide the final court dispositions for all arrests including his 1995 for driving under the influence along with certified copies of his children's birth certificates, evidence to establish his residence during the requisite period, his entry into the United States prior to January 1, 1982, and description of his means of support during the requisite period. As the notice did not address the evidence furnished initially and indicate the basis for the proposed denial, it cannot be considered a Notice of Intent to Deny.

The record reflects that the applicant was convicted on December 4, 1995, in the Vallejo-Benicia Judicial District of Solano County Courts of driving under the influence, a violation of section 23152(a) VC in Case no. 120372. While this conviction does not render the applicant ineligible pursuant to 8 C.F.R. §§ 245a.11(d)(1) and 18(a), the AAO notes that the applicant does has a misdemeanor conviction.

The director may decide to issue another request for additional evidence to request Social Security Administration records, and proof of filing income tax returns for the qualifying period prior to issuing the required Notice of Intent to Deny.

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

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