

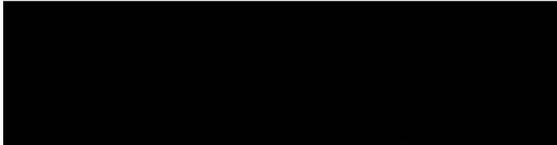


U.S. Citizenship
and Immigration
Services

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invasion of personal privacy**

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FILE: [Redacted] Office: Chicago
MSC 02 239 63085

Date: MAR 16 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:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has been returned to the office that originally decided your case. If your appeal was sustained, or if your case 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, Chicago, Illinois, and is now before the Administrative Appeals Office (AAO) on appeal. This matter will be remanded for further action and consideration.

The district director denied the application because the applicant had failed to establish residence in the United States in an unlawful status from January 1, 1982 through May 4, 1988, as required by section 1104(c)(2)(B) of the LIFE Act.

On appeal, the applicant reiterates his claim of continuous residence in this country for the requisite period.

The regulations at 8 C.F.R. § 245a.20(a)(2) state, in pertinent part:

Denials. The alien shall be notified in writing of the decision of denial and of the reason(s) therefore. When an adverse decision is proposed, CIS shall notify the applicant of its intent to deny the application and the basis for the proposed denial. The applicant will be granted a period of 30 days from the date of the notice in which to respond to the notice of intent to deny. All relevant material will be considered in making a final decision.

A review of both the electronic and administrative record reveals that a notice of intent to deny was never issued to the applicant. Accordingly, the decision of the district director is withdrawn.

It must be noted the record contains the results of the applicant's Federal Bureau of Investigation fingerprint check, which reveal that the applicant was arrested by the Chicago, Illinois Police Department Sheriff's Office and charged with domestic battery on February 20, 2001. The applicant subsequently submitted court documents reflecting that this domestic battery charge was brought against the applicant in [REDACTED] before the Circuit Court of Cook County, Illinois. However, these court documents do not demonstrate the final disposition of this criminal charge against the applicant.

It must be further noted that the residential lease provided by the applicant in support of his claim of residence in this country for the requisite period contains only the signature of the landlord and does not contain the corresponding signature of the applicant as the tenant.

The case will be remanded for the purpose of reviewing the applicant's criminal history and the evidence provided by the applicant to demonstrate his continuous unlawful residence in the United States from prior to January 1, 1982 through May 4, 1988. If the district director concludes that the applicant is ineligible for any reason or that the submitted evidence is not sufficient to establish the applicant's continuous residence in this country for the requisite period, such issues must be specifically set forth in a notice of intent to deny prior to the issuance of a new decision to the applicant. The new decision, if adverse, shall be certified to this office for review.

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