

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

12

FILE: [REDACTED]
MSC 02 243 69161

Office: CHICAGO, IL

Date: NOV 07 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 National Benefits Center. 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.

A handwritten signature in black ink, appearing to read "R. 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 Director, Chicago District Office, and is now before the Administrative Appeals Office (AAO) on appeal. The applicant filed an appeal, and in response to her appeal, the director of the Chicago District Office sent the applicant a letter indicating that her office found that there were no grounds for reopening her appeal. The letter went on to say that the Service had completed all action on the applicant's appeal. The matter is now before the Administrative Appeals Office (AAO) for review. The AAO hereby withdraws the statement made by the director stating that as of January 18, 2007 the Service has completed all action by the Service on the applicant's appeal based on the director's lack of jurisdiction over the matter. *See* 8 C.F.R. § 103.3(a)(2)(iv). Upon review of the matter, the AAO enters its own decision dismissing the appeal.

An applicant for Permanent Resident Status must establish that he or she entered the United States before January 1, 1982 and then maintained continuous residence in the United States in an unlawful status since such date and through May 4, 1988. 8 C.F.R. § 245a.11(b). The regulation at 8 C.F.R. § 245a.12(e) states that applicants for adjustment of status to that of a Legal Permanent Resident under this section bear the burden of establishing that they have resided continuously in the United States for the duration of the requisite period by a preponderance of the evidence.

The director denied the application because she found the evidence submitted with the application was insufficient to establish eligibility for Permanent Resident Status pursuant to the regulation at 8 C.F.R. § 245a.12(e). Specifically, the acting district director noted she found that affidavits submitted by the applicant were not amenable to verification and therefore were not sufficient to prove by a preponderance of the evidence that the applicant had maintained continuous residence for the duration of the requisite period.

The director of the Chicago District Office subsequently stated that she was not going to reopen the applicant's case based on her appeal. She then went on to erroneously state that her decision completed all action by the Service on her appeal. However, the regulation at 8 C.F.R. § 103.3(a)(2)(iv) states the following:

If the reviewing official will not be taking favorable action or decides favorable action is not warranted, that official shall promptly forward the appeal and the related record of the proceeding to the AA[O] in Washington, D.C.

Therefore, the director's statement that the Service had completed all action on the applicant's appeal was invalid and must be withdrawn, as jurisdiction with regard to the appeal remains with the AAO, not with the director of the office that decided the applicant's case.

Accordingly, the AAO hereby withdraws the director's statement and enters its own decision summarily dismissing the applicant's appeal.

On appeal, the applicant requests a review of the evidence in the record and asserts that she is eligible to adjust to Permanent Resident Status. The applicant provided no additional evidence or explanation to overcome the reasons for denial of her application.

As stated in 8 C.F.R. § 103.3(a)(3)(iv), any appeal which is filed that fails to state the reason for appeal, or is patently frivolous, will be summarily dismissed.

A review of the decision reveals the director accurately set forth a legitimate basis for denial of the application. On appeal, the applicant has not presented additional evidence. Nor has she addressed the grounds stated for denial. The appeal must therefore be summarily dismissed.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.