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U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE:

[REDACTED]
MSC 03 210 61064

Office: NEW YORK

Date:

OCT 01 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. 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

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, New York, New York, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The director concluded that the applicant had not demonstrated that he had continuously resided in the United States in an unlawful status from before January 1, 1982 through May 4, 1988. This decision was based on the director's conclusion that the applicant had exceeded the forty-five (45) day limit for a single absence from the United States during this period, as set forth in 8 C.F.R. § 245a.15(c)(1).

On appeal, the applicant states that he returned to the United States in June 1986 and not July 1987, as he stated during his interview. The applicant stated that his nervousness and the length of time since his travel caused him to give the wrong date.

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 record reflects that the director sent her decision of September 25, 2006 to the applicant at his address of record in the United States. The applicant was advised that he must file any appeal with the New York District Office. However, the applicant submitted his appeal directly to the AAO, which returned it with instructions on where the applicant should file his appeal. Citizenship and Immigration Services (CIS) received the properly filed appeal on October 31, 2006, 36 days after the director issued her decision. Therefore, the appeal was untimely filed.

ORDER: The appeal is rejected as untimely filed.