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20 Mass. Ave., N.W., Rm. 3000  
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U.S. Citizenship  
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FILE: MSC 02 004 63376

Office: CHICAGO

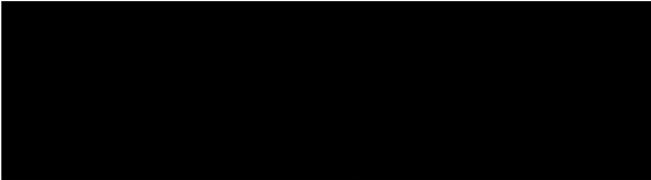
Date: OCT 01 2007

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.

*for* *Michael T. Kelly*  
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. The appeal will be rejected.

The director denied the application because the applicant had not demonstrated that he was physically present in the United States since before January 1, 1982 through May 4, 1988.

The director erred in his determination that the applicant had not established physical presence in the United States from prior to January 1, 1982 through May 4, 1988. An applicant for permanent resident status must establish entry into the United States before January 1, 1982 and *continuous residence* in the United States in an unlawful status since such date and through May 4, 1988. Section 1104(c)(2)(B) of the LIFE Act; 8 C.F.R. § 245a.11(b). An applicant must only establish that he or she was continuously physically present in the United States from November 6, 1986 through May 4, 1988. Section 1104(c)(2)(C) of the LIFE Act; 8 C.F.R. § 245a.11(c). Nonetheless, as the appeal is untimely filed, this issue is moot.

On appeal, counsel states that the decision denying the applicant did not consider all of the evidence presented documentation that the applicant has resided in the United States for the requisite period. Counsel stated on the Form I-290B, Notice of Appeal to the Administrative Appeals Unit, that a brief and/or additional evidence would be submitted within 30 days of filing the appeal. As of the date of this decision, however, more than 25 months after the appeal was filed, no further documentation has been received by the AAO. However, because the appeal is untimely filed, this issue is also moot.

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 his decision of September 14, 2005 to the applicant and counsel at their addresses of record in the United States. Citizenship and Immigration Services (CIS) received the appeal 35 days later on October 19, 2005. Therefore, the appeal was untimely filed.

The applicant filed a new Form I-687, Application for Status as a Temporary Resident, on January 5, 1006 (MSC 06 097 11393), for which the district office has not issued a decision, and it is not at issue in this decision.

**ORDER:** The appeal is rejected as untimely filed.