



U.S. Citizenship
and Immigration
Services

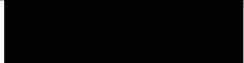
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FILE:



Office: NEW YORK

Date:

OCT 30 2007

MSC 01 361 60585

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:

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

The district director denied the application because the applicant had not: 1) demonstrated that he had continuously resided in the United States in an unlawful status from before January 1, 1982 through May 4, 1988; and 2) maintained continuous physical presence in the United States from November 6, 1986 through May 4, 1988. This decision was based on the director's conclusion that the applicant's absence of five months had exceeded the forty-five (45) day limit for a single absence during the requisite period. The director also concluded that the applicant's absence was not due to an emergent reason.

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 3 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 March 29, 2006 to the applicant at his address of record. The Form I-290B, Notice of Appeal, is very clear in indicating that the appeal is not to be sent directly to the AAO. The applicant, nevertheless, sent his appeal to the AAO. The appeal is not considered properly received until it is received by the district office, which rendered the unfavorable decision. The appeal was properly received at the respective district office on May 5, 2006, 37 days after the decision was issued. Accordingly, the appeal was untimely filed, and must be rejected.

ORDER: The appeal is rejected as untimely filed.