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U.S. Citizenship
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FILE:

MSC 02 043 60314

Office: WEST PALM BEACH

Date:

OCT 31 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:

[REDACTED]

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.

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, West Palm Beach, Florida, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The director denied the petition based on the conclusion that the applicant failed to establish his continuous unlawful residence in the United States during the statutorily relevant time period. Although counsel submitted a motion in response to the district director's adverse decision, 8 C.F.R. § 245a.20(c) prohibits the director from considering a petitioner's motion to reopen the proceeding or reconsider his adverse decision. Counsel subsequently filed an appeal, which is the subject in the present matter.

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). Whenever a person has the right or is required to do some act within a prescribed period after the service of notice upon him and the notice is served by mail, three days shall be added to the prescribed period. Service by mail is complete upon mailing. 8 C.F.R. § 103.5a(b).

The director issued the notice of denial on August 19, 2005 and mailed it to the applicant's address of record. The record shows that counsel filed an appeal along with documents submitted previously with regard to the motion. Counsel's submissions were received on March 5, 2007, which is more than 18 months after the notice of denial was issued. Therefore, the appeal was untimely filed, and must be rejected.

ORDER: The appeal is rejected as untimely filed.