

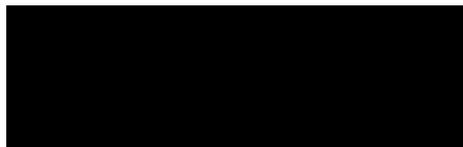
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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE: [Redacted]
MSC 01 303 60120

Office: San Francisco

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 office that originally decided your case. If your appeal was sustained, or if your case 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, San Francisco, California, 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 failed to establish residence in the United States in an unlawful status from January 1, 1982 through May 4, 1988.

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)

Citizenship and Immigration Services or CIS issued the notice of decision on December 20, 2004, and mailed a copy of this notice to the applicant at his most current address of record. The record shows that the notice was not returned as either unclaimed or undeliverable by the United States Postal Service. The record further shows that counsel initially attempted to file the applicant's appeal on February 1, 2005 but this attempted filing was made to an improper CIS office. It is noted that directions contained within the notice of decision dated December 20, 2004, contained specific instructions stating that the Form I-290B, Notice of Appeal, must be submitted to the CIS office that originally rendered the decision. It must be further noted that even if counsel had filed the appeal Form I-290B with the proper CIS office on February 1, 2005, such filing would have been considered as untimely as the appeal Form I-290B was received forty-three days after the notice of decision had been issued.

Counsel properly filed the applicant's appeal Form I-290B with the correct CIS office on April 4, 2005, one hundred five days after the decision was issued. Therefore, the appeal was untimely filed and must be rejected.

ORDER: The appeal is rejected.