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U.S. Citizenship  
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Services

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FILE:

MSC-03-248-62044

Office: CHICAGO, IL

Date:

SEP 14 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. 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.

A handwritten signature in black ink, appearing to read "D. King".

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the Director, Chicago, and that decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The director concluded that the applicant did not demonstrate that he was eligible to adjust to permanent residence because he did not establish that he met the qualifications under the provisions of the LIFE ACT under 8 C.F.R. § 254a.12(e) as he had not established, by a preponderance of the evidence, that he resided in the United States for the duration of the requisite period. In saying this, the director noted that the applicant, who was born on May 16, 1981, submitted an affidavit which indicated that he entered the United States for the first time when he was two (2) years old. As the applicant would have been two (2) years old in 1983, the director found that this demonstrated the applicant was not physically present in the United States before January 1, 1982, which indicated that he had not resided continuously in the United States for the duration of the requisite period. Therefore, the director denied the application.

On appeal the applicant's attorney submits brief stating that the applicant first entered the United States in June of 1981 shortly after he was born but that his mother returned with him to India because he was ill in 1983.

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). If the last day of the period so computed falls on a Saturday, Sunday or a legal holiday, the period shall run until the end of the next day which is not a Saturday, Sunday, nor a legal holiday. 8 C.F.R. § 1.1(h).

The record reflects that the director sent his decision of March 17, 2005 to the applicant at his address of record. Citizenship and Immigration Services (CIS) received the appeal thirty-five (35) days later on April 21, 2005. Therefore, the appeal was untimely filed.

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