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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

LC

FILE:

MSC 03 263 60292

Office: BOSTON (HARTFORD, CT)

Date: **APR 25 2008**

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:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. If your appeal was dismissed or rejected, all documents have been returned to the National Records Center. 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. If your appeal was sustained or remanded for further action, you will be contacted.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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, Boston, Massachusetts, 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 she had continuously resided in the United States in an unlawful status since before January 1, 1982, through May 4, 1988. Section 1104(c)(2)(B) of the LIFE Act; 8 C.F.R. § 245a.11(b).

The applicant seeks on appeal to “reopen” the application based on ineffective assistance of counsel. The applicant submits a “Motion Requesting Immigration Status” in support of the appeal.

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 applicant alleges that her former counsel provided ineffective assistance by failing to respond to the director’s Notice of Intent to Deny and failing to timely appeal the denial of her application. The applicant cites *Lopez v. INS*, 184 F.3d 1097 (9th Cir. 1999), stating that the “statute of limitation to reopen immigration proceedings is equitably tolled where the alien’s late petition is the result of deceptive actions of ineffective assistance of counsel.”

Any appeal or motion based upon a claim of ineffective assistance of counsel requires: (1) that the claim be supported by an affidavit of the allegedly aggrieved respondent setting forth in detail the agreement that was entered into with counsel with respect to the actions to be taken and what representations counsel did or did not make to the respondent in this regard, (2) that counsel whose integrity or competence is being impugned be informed of the allegations leveled against him and be given an opportunity to respond, and (3) that the appeal or motion reflect whether a complaint has been filed with appropriate disciplinary authorities with respect to any violation of counsel’s ethical or legal responsibilities, and if not, why not. *Matter of Lozada*, 19 I&N Dec. 637 (BIA 1988), *aff’d*, 857 F.2d 10 (1st Cir. 1988).

This case is distinguished from *Lopez*, which involved a notary who held himself out to be a lawyer. The court found that this deceptive practice might have constituted ineffective assistance of counsel. Nonetheless, the court noted that the applicant in that case followed the procedures for establishing ineffective assistance as set forth in *Lozada*.

The applicant in this case did not support her claim of ineffective assistance with any documentation required by *Lozada*. Accordingly, she has not provided evidence to establish a claim of ineffective assistance of counsel, and the regulatory period for filing her appeal has not been suspended.

The record reflects that the director sent his decision of February 25, 2005, to the applicant and former counsel at their addresses of record in the United States. Citizenship and Immigration Services (CIS) received the appeal on March 9, 2006, more than a year after the director issued his decision.

ORDER: The appeal is rejected as untimely filed.