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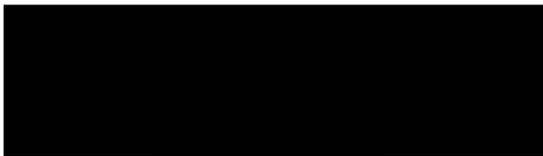
U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. 3000  
Washington, D.C. 20529



U.S. Citizenship  
and Immigration  
Services

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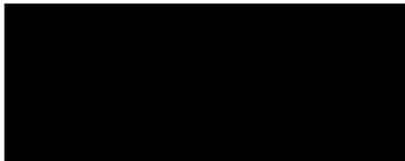
FILE: MSC 02 236 64845 Office: SAN FRANCISCO Date: **AUG 04 2008**

IN RE: Applicant:



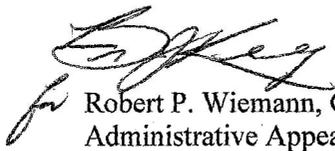
APPLICATION: Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), amended by Life Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000).

ON BEHALF OF APPLICANT:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits 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.

  
for Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied due to abandonment by the District Director, San Francisco, California. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected. The AAO will return the matter for further action by the director.

The director denied the application due to abandonment because he determined that the applicant had failed to submit the requested Form I-690, Application for Waiver of Grounds of Excludability.

The record reflects that on July 29, 2005, the director denied the application pursuant to 8 C.F.R. § 103.2(b)(13). In his denial notice, the director informed the applicant that he could appeal the decision to the AAO on a Form I-290B, Notice of Appeal.

The regulation at 8 C.F.R. § 103.2(b)(13) provides that if all requested initial evidence is not submitted by the required date, the application or petition shall be considered abandoned and, accordingly, shall be denied. A denial due to abandonment may not be appealed.

Because the application was filed under section 245A of the Immigration and Nationality Act (the Act), we must look to the regulation that clarifies the requirements for motions under section 245A of the Act. Pursuant to 8 C.F.R. §§ 103.5(b) and 245a.20(c), motions to reopen a proceeding or reconsider a decision shall not be considered.

In the present case, the original decision to deny the application was not appealable to the AAO. The director, in his denial notice, erroneously informed the applicant that he had 30 days to file an appeal (33 days if the notice was delivered by mail). The director's error, however, does not, and cannot, supersede the regulation regarding the ability of the AAO to consider the appeal.

Since there is no right of appeal to the director's decision in the present matter, the appeal will be rejected.

Finally, the record reflects that the requested document was received within the 12- week time period as the Form I-690 was fee receipted on May 27, 2005 at the California Service Center. It is noted that, pursuant to 8 C.F.R. §§ 103.5(b) and 245a.20(c), the director may *sua sponte* reopen any adverse decision.

**ORDER:** The appeal is rejected.