

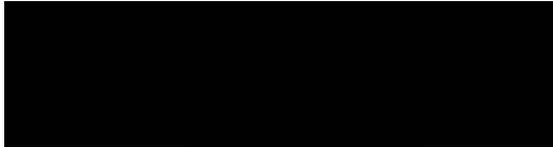
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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, D.C. 20529



U.S. Citizenship
and Immigration
Services

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FILE:

MSC 03 009 60455

Office: LOS ANGELES

Date: **AUG 27 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:

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 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.

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

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 by the Acting District Director, Los Angeles, California, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The record reflects that on February 5, 2007, the director denied the application due to abandonment because the applicant had failed to respond to the Notice of Intent to Deny issued on August 12, 2006. In her 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.

The application was filed under section 245A of the Immigration and Nationality Act (the Act). Therefore, 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 her 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.

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

ORDER: The appeal is rejected.