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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
MSC 02 220 60431

Office: BALTIMORE

Date: **AUG 29 2008**

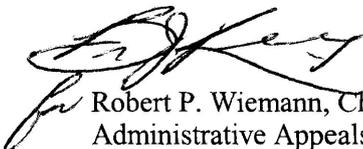
IN RE: Applicant: [REDACTED]

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 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.


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 (director) in Baltimore, Maryland. The decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant, a native of Nigeria who claims to have lived in the United States since 1981, filed his application for legal permanent resident status under the LIFE Act (Form I-485) on May 8, 2002. The director denied the application on May 19, 2003 on the grounds that the applicant failed to establish continuous residence in the United States during the statutory period. The applicant appealed the decision to the AAO. On December 31, 2003, the AAO remanded the case to the district for a new decision because the director failed to address the evidence submitted by the applicant and render a determination on its credibility.

In a Notice of Intent to Deny (NOID), dated March 24, 2005, the director, after listing pertinent documentation in the record, indicated that the applicant had failed to provide sufficient credible evidence to establish that he had resided continuously in the United States from before January 1, 1982 through May 4, 1988. Specifically, the director noted that the applicant failed to establish that he entered the United States before January 1, 1982 and resided continuously in the United States in an unlawful status from before January 1982 through May 4, 1988; that the applicant's absence from the United States in 1987 was not brief, casual and innocent; that the applicant entered the United States on June 27, 1987 with a valid F-1 visa and was in lawful status for all or part of the time from June 27, 1987 until May 4, 1988, thereby interrupting his continuous resident status requirement under LIFE legalization; that he submitted an incomplete medical examination, Form I-693, and that he is inadmissible because of his arrest on January 11, 1994, for Possession With Intent to Distribute Heroin in Rockville, Maryland, for which the applicant failed to submit a certified court disposition. The applicant was granted 30 days to submit a rebuttal or additional documentation.

After the applicant failed to submit any additional documentation, the director denied the application on October 11, 2005, for reasons stated in the NOID.

On his Form I-290B, Notice of Appeal to the AAO filed on October 25, 2005, and an accompanying letter, the applicant asserted that the director failed to address the issues raised by the AAO in its December 31, 2003 decision. Rather, the new decision from the director "seems like a fishing expedition." The applicant did not allege any legal or factual error in the director's decision and did not submit additional documentation in support of the appeal. As of the date of this decision, no additional evidence has been submitted, and the record will be deemed complete.

The AAO however, notes that a copy of Criminal System Inquiry Charges/Disposition Display from the District Court of Maryland, dated November 1, 1996, indicates that the applicant's January 11, 1994, arrest for Possession With Intent to Distribute Heroin in Rockville, Maryland, was dismissed on April 14, 1994. Therefore, the director's decision to deny based on this ground will be withdrawn.

Any appeal that fails to state the reason for appeal, or is patently frivolous, will be summarily dismissed. 8 C.F.R. § 103.3(a)(3)(iv).

A review of the decision reveals that the director set forth a legitimate basis for denial of the application. On appeal, the applicant has not presented additional evidence. Nor has he addressed all the bases for denial.

An applicant for permanent resident status under section 1104 of the LIFE Act has the burden to establish by a preponderance of the evidence that he or she has resided in the United States for the requisite periods, is admissible to the United States and is otherwise eligible for adjustment of status under this section. The inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility, and its amenability to verification. *See* 8 C.F.R. § 245a.12(e). In this case, the applicant has failed to meet his burden of proof.

The appeal must therefore be summarily dismissed.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.