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

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FILE:

MSC 02 211 64651

Office: MIAMI, FLORIDA

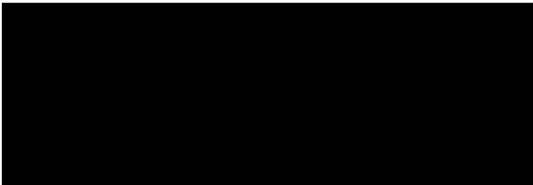
Date: **DEC 23 2008**

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 forwarded to the Citizenship and Immigration Services 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 if the matter was remanded for further action, the record of proceedings was returned to the office that originally issued a decision in your case, and you will be contacted.

  
John F. Grissom, Acting 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, Miami, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The director concluded that the applicant failed to demonstrate that he resided continuously in the United States in an unlawful status throughout the statutory period. Therefore, he denied the application.

On appeal, the applicant asserted through counsel that the evidence in the record does establish that he resided continuously in the United States in an unlawful status during the statutory period.

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).

The record reflects that the director issued the February 18, 2005 notice of decision to the applicant at his address of record. U.S. Citizenship and Immigration Services (USCIS) received the Form I-290B, Notice of Appeal to the Administrative Appeals Office, 46 days later on April 5, 2005. Therefore, the appeal was untimely filed.

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