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U.S. Citizenship
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[Redacted]

FILE: [Redacted]
MSC-03-242-61917

Office: PHILADELPHIA

Date: **FEB 04 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:

[Redacted]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. If your appeal was sustained, or if your case was remanded for further action, you will be contacted. If your appeal was dismissed, 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.

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, Philadelphia. The decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The director denied the application because the applicant had failed to establish that she satisfied the residence requirement under section 1104(c)(2)(B) of the LIFE Act.

If an appeal is filed from within the United States it must be received by U.S. Citizenship and Immigration Services (CIS) within 30 days after service of the Notice of Denial, and an appeal received after the 30-day period has tolled will not be accepted. 8 C.F.R. § 245a.20(b)(1). The 30-day period for submitting an appeal begins 3 days after the Notice of Denial is mailed. *Id.*

The director issued the Notice of Denial on October 4, 2006, and mailed it to the applicant and counsel's addresses of record. On appeal, substituted counsel asserts the applicant did not receive the decision until October 27, 2006. The decision was sent by certified mail to the applicant and his attorney of record. According to the U.S. Postal Service, the applicant received his copy on October 25, 2006. The applicant's attorney received his copy of the decision on October 12, 2006. Nonetheless, the date of receipt of the decision is not determinative. The date the properly executed appeal and filing fee is received by CIS is determinative. Here, the appeal was received on November 22, 2006, 49 days after the date the decision was sent to the applicant and counsel. Therefore, the appeal was untimely filed and must be rejected.

ORDER: The appeal is rejected.