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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:



Office: PROVIDENCE

Date: **JUL 11 2008**

MSC 01 293 60216

IN RE:

Applicant:



PETITION: 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. All documents have been returned to the office that originally decided your case. If your appeal was sustained, or if the matter 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 Interim District Director, Providence, Rhode Island, and is now before the Administrative Appeals Office (AAO) on appeal. This matter will be remanded for further action and consideration.

The district director denied the application on November 15, 2004, because the applicant failed to demonstrate that she entered the United States before January 1, 1982, and resided in a continuous unlawful status through May 4, 1988. The director noted that the applicant was interviewed on February 13, 2002, but she submitted insufficient evidence in support of her application.

On appeal, counsel asserts that the director placed an impermissible evidentiary burden on the applicant.

The regulations at 8 C.F.R. § 245a.20(a)(2) state, in pertinent part:

Denials. The alien shall be notified in writing of the decision of denial and of the reason(s) therefore. When an adverse decision is proposed, CIS shall notify the applicant of its intent to deny the application and the basis for the proposed denial. The applicant will be granted a period of 30 days from the date of the notice in which to respond to the notice of intent to deny. All relevant material will be considered in making a final decision.

A review of the record does not indicate that the director issued a notice of intent to deny (NOID). It is noted that although the applicant was interviewed on February 13, 2002, and the director's denial notice was issued on November 15, 2004, a NOID was not issued.

Accordingly, the decision of the director is withdrawn. The case will be remanded for the purpose of the issuance of a notice of intent to deny as well as a new decision to both the applicant and counsel. The new decision, if adverse, shall be certified to this office for review.

ORDER: This matter is remanded for further action and consideration pursuant to the above.