

U.S. Citizenship
and Immigration
Services



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FILE: MSC-03 251 60284

Office: SAN JOSE

Date: **MAY 05 2008**

IN RE: Applicant:



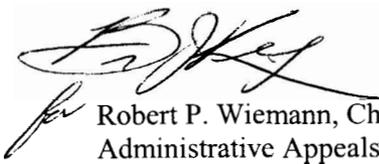
APPLICATION: Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), amended by LIFE Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000).

ON BEHALF OF APPLICANT:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. 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, San Jose, California. 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 he satisfied the residence requirement under section 1104(c)(2)(B) of the LIFE Act.

It is noted that counsel stated on the Notice of Appeal to the Administrative Appeals Office (AAO), Form I-290B, filed December 13, 2005, that an appeal brief will be submitted within 60 days. However, the record does not reflect receipt of an appeal brief. Also, counsel does not submit any additional evidence on appeal. Therefore, the record must be considered complete.

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 November 8, 2005 and mailed it to the applicant's address of record. The appeal was received by CIS on December 13, 2005, 35 days later. Therefore, the appeal was untimely filed and must be rejected.

ORDER: The appeal is rejected.