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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE: [REDACTED]
MSC 02 240 65271

Office: HOUSTON

Date: **MAY 28 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. 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 District Director, Houston, Texas, denied the application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act. The Administrative Appeals Office (AAO) summarily dismissed a subsequent appeal. The application is reopened on service motion. The matter will be remanded for further action and consideration.

The director denied the application because the applicant had not demonstrated that he had continuously resided in the United States in an unlawful status since before January 1, 1982, through May 4, 1988. Section 1104(c)(2)(B) of the LIFE Act; 8 C.F.R. § 245a.11(b). The director determined that the applicant's deportation during the required period interrupted his continuous residency. 8 C.F.R. § 245a.15(c)(3). The director also noted that the applicant failed to respond to the Notice of Intent to Deny (NOID) issued on August 3, 2004.

On appeal, counsel asserted that the applicant responded to the NOID and that the applicant denied that he had been deported from the United States. Counsel submitted no additional documentation on appeal. The AAO noted that the record did not contain a response to the director's NOID and the applicant failed to meet his burden of proof.

On motion, counsel submits a copy of supplemental documentation that he previously submitted to Citizenship and Immigration Services. The documentation indicates that the Houston District Office received the supplemental information on December 7, 2004. Accordingly, this information should have been included in the record and considered during the applicant's appeal. Therefore, the record is reopened on service motion for consideration of the applicant's evidence.

Documentation in the record reveals that the applicant's record was inadvertently consolidated with that of another individual with a similar name and the same date of birth. Federal Bureau of Investigation records, based on fingerprint records, clearly indicate, however, that the applicant is not the same individual who was deported from the United States in 1983.

Accordingly, the decision of the director dated September 30, 2004 and the decision of the AAO dated September 21, 2006 are withdrawn.

However, the application may not be approved as the record now stands. The record does not reflect that the applicant has established that he has satisfied the "basic citizenship skills" required under section 1104(c)(2)(E) of the LIFE Act. Further, the record does not establish that the applicant has established that he has continuously resided in the United States in an unlawful status since before January 1, 1982, through May 4, 1988. Section 1104(c)(2)(B) of the LIFE Act; 8 C.F.R. § 245a.11(b).

The record is remanded for the director to determine whether the applicant has met the requirements of section 1104(c)(2)(E) and section 1104(c)(2)(B) of the LIFE Act. If the new decision is adverse, it shall be certified to this office.

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