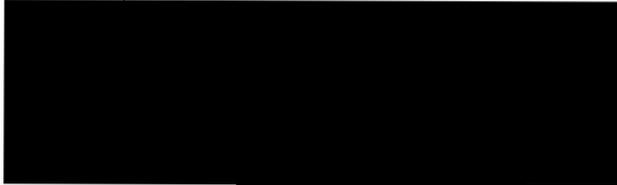


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**U.S. Citizenship
and Immigration
Services**

PUBLIC COPY



FILE:

MSC 02 165 61857

Office: CHARLOTTE

Date: **SEP 27 2006**

IN RE:

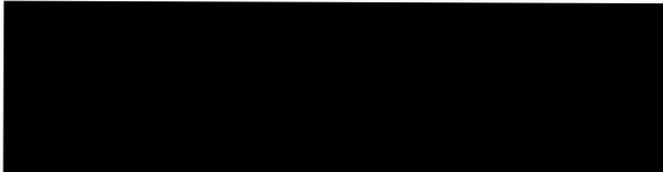
Applicant:



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 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.

A handwritten signature in black ink, appearing to read "R. Wiemann".

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, Atlanta, Georgia (Charlotte, North Carolina), and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The district director denied the application because the applicant had not demonstrated that he had continuously resided in the United States in an unlawful status from before January 1, 1982 through May 4, 1988.

On appeal, counsel states that Citizenship and Immigration Services (CIS) erred as a matter of fact and law as the applicant submitted sufficient evidence in support of his application. Counsel indicated on the Form I-290B, Notice of Appeal to the Administrative Appeals Unit, that a brief and/or evidence would be submitted to the AAO within 30 days. As of the date of this decision, more than 31 months after the appeal was filed, no additional evidence has been received by the AAO. The issue is moot, however, as the appeal was untimely filed.

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 three days after the Notice of Decision is mailed. 8 C.F.R. § 245a.20(b)(1).

The record reflects that the director sent her decision of January 14, 2004 to the applicant at his address of record in the United States. CIS received the appeal, dated February 13, 2004, 35 days later, on February 19, 2004. Therefore, the appeal was untimely filed.

Even if it were not being rejected as untimely filed, the appeal would be summarily dismissed. The regulation at 8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part:

An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

On the Form I-290B, counsel simply stated that CIS had erred as a matter of fact and law and that the applicant had submitted sufficient evidence in support of his LIFE Act application. Counsel also indicated that she would submit a brief within 30 days. During the subsequent period of nearly two and one-half years, counsel has submitted five additional requests for extension of time in which to file a brief. Each request has been based on the fact that the alien has a separate pending application filed pursuant to the settlement agreement in *Newman et al. v. INS et al.*, 87-4757-WDK (CWx) (C.D.Cal.), and counsel wishes to wait until that application is adjudicated before she determines whether or not it is necessary to prepare a brief for the instant appeal.

Pursuant to 8 C.F.R. § 103.3(a)(2)(vii), the AAO is not required to accept untimely supplements to appeals. Rather, the applicant must, in advance, demonstrate that good cause exists for an extension of time. The Form I-290B Notice of Appeal, itself, indicates that an extension of more than 30 days “[m]ay be granted only for good cause shown.” In this instance, the applicant did not show good cause, and the initial appeal contained no indication that the applicant would need an additional period of nearly two and one half years to prepare and submit the brief. The filing of an appeal does not secure for the applicant an open-ended or indefinite period in which to supplement the record at will. Accordingly, even if this appeal were not rejected as late, it would be summarily dismissed.

ORDER: The appeal is rejected as untimely filed.