

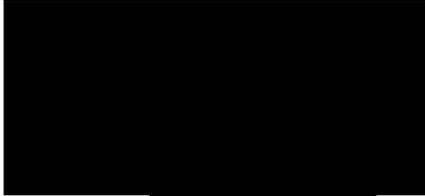
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U.S. Department of Homeland Security  
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U.S. Citizenship  
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Services

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FILE: MSC 02 242 60921

Office: MIAMI

Date:

**NOV 01 2007**

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. Any further inquiry must be made to that office.

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, Miami, Florida, 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 since before January 1, 1982 through May 4, 1988.

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

The record reflects that the director sent his decision of September 27, 2005 to the applicant and to counsel at their addresses of record. The Form I-290B, Notice of Appeal, is very clear in indicating that the appeal is not to be sent directly to the AAO. Counsel, who dated the appeal October 27, 2005, nevertheless, sent the appeal to the AAO. Counsel contends that she could not file the appeal with fee at the Miami District Office because it had been closed since October 24, 2005 due to Hurricane Wilma. Counsel's assertion, however, has not merit as she could have *mailed* the Form I-290B with fee to the Miami Office. Applications postmarked during the time-period the Miami District Office was closed due to Hurricane Wilma would be and was accepted as timely filed. It is noted that the Miami District Office was reopened for business on October 28, 2005. The appeal was received at the respective district office on November 10, 2005, 44 days after the decision was issued. Accordingly, the appeal was untimely filed, and must be rejected.

**ORDER:** The appeal is rejected as untimely filed.