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U.S. Department of Homeland Security
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U.S. Citizenship
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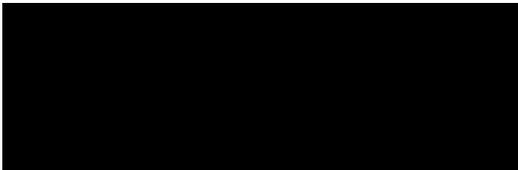
FILE: [REDACTED] Office: Baltimore

Date: SEP 27 2005

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:



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, Director
Administrative Appeals Office

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the District Director, Baltimore, Maryland, 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 asserts that the applicant has submitted sufficient documentation establishing continuous residence in the United States from prior to 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)

If an applicant's last known address of record was outside the United States, and the Notice of Decision was mailed to that foreign address, the appeal must be received by the Service within 60 calendar days after service of the Notice of Decision. An appeal received after the 60 day period has tolled will not be accepted. The 60-day period for submitting an appeal begins 3 days after the Notice of Decision is mailed. 8 C.F.R. § 245a.20(b)(2).

The record reflects that the director sent the decision of August 28, 2003, to the applicant at his address of record. The record contains a postal return receipt signed by the applicant on September 2, 2003, specifically acknowledging his receipt of the notice of decision. The appeal Form I-290B was filed with the Citizenship and Immigration Services' (CIS) office that issued the notice of decision 60 days later on October 27, 2003. A review of the instructions to the appeal Form I-290B reveals that aliens are explicitly informed that the appeal must be filed with the CIS office that made the unfavorable decision. Therefore, the appeal was untimely filed.

The burden of proving eligibility for the benefit sought remains entirely with the applicant. Section 291 of the Immigration and Nationality Act, 8 U.S.C. § 1361. The applicant has not sustained that burden.

ORDER: The appeal is rejected as untimely filed.