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U.S. Citizenship
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Services

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[REDACTED]

FILE: [REDACTED]
MSC 04 114 62134

Office: NATIONAL BENEFITS CENTER

Date: AUG 18 2006

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. 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 Director, National Benefits Center, and is now before the Administrative Appeals Office on appeal. The case will be remanded for further action and consideration.

The director determined that the applicant was inadmissible to the United States under section 245A(a)(4) of the Immigration and Nationality Act, 8 U.S.C. § 1255a(a)(4), because he had been convicted of a felony in the United States. Therefore, the director concluded the applicant was ineligible for permanent resident status under the LIFE Act and denied the application.

The regulation at 8 C.F.R. § 245a.20(a)(2) provides that when an adverse decision is proposed, Citizenship and Immigration Services shall notify the applicant of its intent to deny the application and the basis for the proposed denial. The applicant will be granted 30 days from the date of the notice in which to respond to the notice of intent to deny.

The record, however, does not reflect that a Notice of Intent to Deny (NOID) was issued prior to the director's Notice of Decision.

Accordingly, the case is remanded for the issuance of a NOID and for the entry of a new decision in accordance with the foregoing.

The record reflects that the applicant was arrested at least four times for offenses including twice for drunk driving (in 1990 and 1995), spousal beating (in 1992), and assault with a deadly weapon (in May 2003). The applicant also indicated in block 40 of his Form I-687, Application for Status as a Temporary Resident, which he signed on August 24 1989, that he was arrested, convicted or confined in prison for drunk driving in August 1987. The NOID should address the applicant's complete criminal history, including official arrest records and the final disposition of all offenses. 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.