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U.S. Citizenship
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[REDACTED]

FILE: [REDACTED]
MSC-02-219-60592

Office: DALLAS

Date: DEC 06 2007

IN RE: Applicant: [REDACTED]

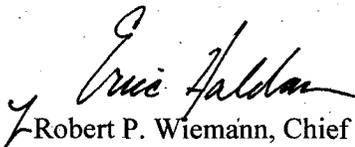
APPLICATION: Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), amended by LIFE Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000).

ON BEHALF OF APPLICANT:

[REDACTED]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has been returned to the office that originally decided your case. If your appeal was sustained, or if your case 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, 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, Dallas. The decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application because the applicant failed to appear for either of two scheduled interviews. As stated in 8 C.F.R. § 245a.19(a), all applicants for adjustment of status under the LIFE Act must be personally interviewed, except that the interview may be waived for a child under the age of 14, or when it is impractical because of the health or advanced age of the applicant. Where an applicant fails to appear for two scheduled interviews, his or her application shall be denied for lack of prosecution.

On appeal, counsel for the applicant stated that the applicant had explained his failure to attend the interviews in his response to the Notice of Intent to Deny (NOID). Specifically, counsel stated that the applicant erroneously believed that if he did not have every document on the list of documents provided with the interview notice, his application would be denied. Counsel also stated that the director failed to consider the applicant's response to the NOID. The director's decision states that the applicant failed to provide new evidence in response to the NOID. It is noted that the response to the NOID consists only of a statement prepared by counsel for the applicant. Without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner's burden of proof. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). On appeal, the applicant provided no additional evidence or explanation to overcome the reasons for denial of his application. Specifically, the applicant failed to include documentation indicating that he actually appeared for either of the scheduled interviews, or that he qualifies for an exception to the interview requirement.

As stated in 8 C.F.R. § 103.3(a)(3)(iv), any appeal which is filed that fails to state the reason for appeal, or is patently frivolous, will be summarily dismissed.

A review of the decision reveals the director accurately set forth a legitimate basis for denial of the application. On appeal, the applicant has not presented additional evidence. Nor has he specifically addressed the grounds stated for denial. The appeal must therefore be summarily dismissed.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.