



U.S. Citizenship  
and Immigration  
Services

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FILE: [REDACTED]  
MSC 03 245 61224

Office: NEW YORK

Date: JUL 18 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:

SELF-REPRESENTED

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, 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, New York, New York, 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 she had continuously resided in the United States in an unlawful status from before January 1, 1982 through May 4, 1988. Section 1104(c)(2)(B) of the LIFE Act; 8 C.F.R. § 245a.11(b).

On appeal, the applicant states that she did not receive the director's Notice of Decision, dated March 18, 2005, until December 29, 2005 because the notice was mailed to Lee's Summit, Missouri instead of to the applicant. The applicant also states that she is a spouse of a LIFE applicant and that she only needs to establish that she entered the United States prior to December 1, 1988. The applicant submits a letter and additional documentation in support of the appeal.

The regulation at 8 C.F.R. § 103.3(a)(1)(iii) states, in pertinent part:

(B) *Meaning of affected party.* For purposes of this section and §§ 103.4 and 103.5 of this part, *affected party* (in addition to the Service) means the person or entity with legal standing in a proceeding. It does not include the beneficiary of a visa petition.

The regulation at 8 C.F.R. § 103.3(a)(2)(v) states:

*Improperly filed appeal – (A) Appeal filed by person or entity not entitled to file it – (1) Rejection without refund of filing fee.* An appeal filed by a person or entity not entitled to file it must be rejected as improperly filed. In such a case, any filing fee the Service has accepted will not be refunded.

Only an affected party, a person or entity with legal standing, may file an appeal of an unfavorable decision. The Form I-290B, Notice of Appeal to the Administrative Appeals Unit, is signed by the applicant's husband, and the record contains a Form G-28, Notice of Appearance as Attorney or Representative, signed by the applicant authorizing her husband to act on her behalf. The regulation at 8 C.F.R. § 103.2(a)(3) specifies that an applicant may be represented "by an attorney in the United States, as defined in § 1.1(f) of this chapter, by an attorney outside the United States as defined in § 292.1(a)(6) of this chapter, or by an accredited representative as defined in § 292.1(a)(4) of this chapter." In this case, the applicant's husband is not an authorized representative. Therefore, the appeal has not been filed by the applicant or by any entity with legal standing in the proceeding. Therefore the appeal has not been properly filed and must be rejected.

Additionally, the appeal must be rejected as 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 March 18, 2005 to the applicant at her address of record in the United States. Citizenship and Immigration Services (CIS) received the appeal on January 12, 2006, almost ten months after the director issued her decision. Therefore, the appeal was untimely filed.

The applicant stated that she did not receive the director's letter because it had been mailed to the CIS offices in Lee's Summit, Missouri. The applicant submitted no documentation to substantiate her statement, and apparently drew this conclusion because the National Benefits Center in Lee's Summit, the holder of the applicant's records, mailed her copies of documentation included in her file, which she apparently received on December 5, 2005. Accordingly, the appeal must also be rejected as untimely filed.

**ORDER:** The appeal is rejected.