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U.S. Citizenship
and Immigration
Services

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FILE:

MSC-03-249-60991

Office: DALLAS, TX

Date:

SEP 14 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. The file has been returned to the National Benefits Center. 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 Director, Dallas, Texas, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The director concluded that the applicant did not demonstrate that he possessed a minimal understanding of ordinary English or knowledge and understanding of the history and government of the United States and therefore did not meet the requirements of 8 C.F.R. § 245a.17 which specify that applicants must possess knowledge and understanding in both of these areas in order to adjust status unless an exception under 8 C.F.R. § 245a.17(c) applies. The director noted that the applicant was given two opportunities to demonstrate this understanding and knowledge. It is noted that exceptions as defined under 8 C.F.R. § 245a.17(c) do not apply to the applicant, as he is not over sixty-five (65) years of age and he has not indicated that he is developmentally disabled as defined under 8 C.F.R. § 245a.1(v). Therefore, the director denied the application.

On appeal the applicant's attorney submits a letter stating that though the applicant cannot produce evidence of the applicant's having enrolled, he has been taking English literacy classes to be better prepared to demonstrate English language skills and his understanding of United States government and history if retested.

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 the last day of the period so computed falls on a Saturday, Sunday or a legal holiday, the period shall run until the end of the next day which is not a Saturday, Sunday, nor a legal holiday. 8 C.F.R. § 1.1(h).

The record reflects that the director sent her decision of January 31, 2005 to the applicant and to counsel at their addresses of record. Citizenship and Immigration Services (CIS) received the appeal thirty-six (36) days later on March 8, 2005. Therefore, the appeal was untimely filed.

ORDER: The appeal is rejected as untimely filed.