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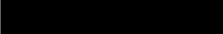


U.S. Citizenship
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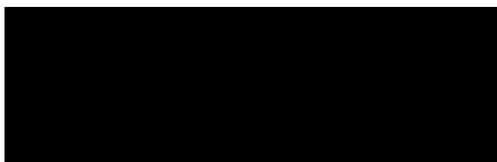
Office: HOUSTON

Date: **SEP 28 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. 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, Houston, Texas, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The director concluded that 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. This decision was based on the director's conclusion that the applicant had exceeded the forty-five (45) day limit for a single absence, as well as the aggregate limit of one hundred and eighty (180) days for total absences, from the United States during this period, as set forth in 8 C.F.R. § 245a.15(c)(1).

On appeal, counsel asserts that the applicant submitted evidence to establish that his trips outside of the United States were brief, casual and innocent, and therefore do not preclude him from qualifying for benefits under the LIFE Act. Counsel submits a brief and additional documentation in support of the appeal.

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 his decision of November 17, 2003 to the applicant at his address of record in the United States. Citizenship and Immigration Services (CIS) received the appeal ten months later on September 24, 2004. Therefore, the appeal was untimely filed.

Counsel asserts on appeal that the applicant did not receive the director's Notice of Denial, and only discovered that his application was denied when his Form I-765, Application for Employment Authorization, was also denied.

As noted, the record reflects that the director's Notice of Denial was mailed to the applicant at his address of record. The record does not indicate that the notice was returned as undeliverable. Accordingly, the record reflects that the director properly served the applicant with notice of his decision.

ORDER: The appeal is rejected as untimely filed.