



U.S. Citizenship
and Immigration
Services

PUBLIC COPY
identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



L2

FILE: [REDACTED] Office: FRESNO Date: MAY 14 2008
MSC 02 235 62390
[REDACTED]

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. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits Center. 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. If your appeal was sustained or remanded for further action, you will be contacted.


for 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, San Francisco, California, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The regulation at 8 C.F.R. § 245(a).19(a) requires that each alien who files an application for adjustment of status under the LIFE Act must be interviewed, except that the interview may be waived when it is impractical because of the health of the applicant or for a child under the age of 14. When an applicant fails to appear for two scheduled interviews, his application shall be denied for lack of prosecution.

The regulation at 8 C.F.R. § 103.2(b)(13) provides that if an individual requested to appear for an interview and Citizenship and Immigrations Services does not receive the individual's request for rescheduling by the date of the interview, the application shall be considered abandoned, and accordingly, shall be denied. A denial due to abandonment may not be appealed, but an applicant may file a motion to reopen under 8 C.F.R. § 103.5. 8 C.F.R. § 103.2(b)(15).

The record reflects that on February 18, 2004, the director denied the application due to abandonment because the applicant had failed to appear for his scheduled interviews. In his denial letter, the director informed the applicant that he could appeal the decision to the AAO on a Form I-290B, Notice of Appeal.

There is no appeal of the director's decision in the present matter. Nevertheless, the record was forwarded to the AAO for adjudication. The director's error, however, does not, and cannot, supersede the regulation regarding the ability of the AAO to consider the appeal. As there is no appeal of the decision in the present matter, the appeal will be rejected.

ORDER: The appeal is rejected.