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U.S. Department of Homeland Security  
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MAIL STOP 2090



U.S. Citizenship  
and Immigration  
Services

L2



FILE:

MSC 02 044 63087

Office: HOUSTON

Date: NOV 03 2008

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. 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 director in Houston, Texas. The decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The applicant, a native of Mexico who claims to have lived in the United States since 1979, filed her application for legal permanent resident status under the LIFE Act (Form I-485) on November 13, 2001. The director denied the application on June 8, 2006 on the grounds that the applicant failed to establish (1) that she resided in the United States in a continuous unlawful status from before January 1, 1982 through May 4, 1988, as required under section 1104(c)(2)(B) of the LIFE Act and (2) that she is not inadmissible to the United States under section 212(a) of the Immigration and Nationality Act.

As provided in the regulation at 8 C.F.R. § 103.3(a)(2)(i), an appeal together with the fee specified in 8 C.F.R. § 103.7 must be filed “with the office where the unfavorable decision was made” within 30 days of the date the decision was served. Three additional days are allowed for an appeal if the notice of decision was served by mail. *See* 8 C.F.R. § 103.5a(b). Since the Notice of Decision was mailed to the applicant in this case, a 33-day appeal period applies. If the last day of the appeal period falls on a weekend or a holiday, the deadline is extended until the next working day. *See* 8.C.F.R. § 1.1 (h).

The decision by the director in Houston was issued on June 8, 2006, and mailed to the applicant’s address of record, as well as counsel’s address of record. Under the regulations, therefore, the filing deadline for an appeal was Tuesday, July 11, 2006. As specified in the regulation at 8 C.F.R. § 103.2(a)(7), a properly prepared document is filed on the date it is received by Citizenship and Immigration Services (CIS).

An application or petition received in a [CIS] office shall be stamped to show the time and date of actual receipt and . . . shall be regarded as properly filed when so stamped, if it is signed and executed and the required filing fee is attached or a waiver of the filing fee is granted.

The applicant’s appeal (Form I-290B) bears a receipt stamp showing that it was received by the director in Houston on January 29, 2007. That was more than six months after the deadline for filing an appeal. The regulation at 8 C.F.R. § 103.3(a)(2)(v)(B)(1) provides that “[a]n appeal which is not filed within the time allowed must be rejected as improperly filed.”

The applicant alleges that she did not receive the director’s decision until January 4, 2007. The record indicates that the decision was addressed to the applicant, with a copy to her counsel, and mailed to their current addresses. There is no evidence in the record that the decision was returned as undeliverable. In fact, the applicant’s address on the decision is the same address that the applicant lists on her appeal.

The applicant has submitted a photocopy of an envelope addressed to her at [REDACTED] Houston, Texas, with a United States postmark date of January 4, 2007 as evidence that she received the decision on or shortly after that date, rather than in June 2006. The applicant did not submit the original envelope to verify that the decision was received in early January 2007. The photocopy in the record also contains several anomalies that cast doubt upon the authenticity of the envelope. For one thing, it is addressed to the applicant in longhand rather than in printed label form. For another, the address of the Citizenship and Immigration Services (CIS) office is identified as [REDACTED] Houston, TX 77060, whereas the address of the CIS office on the Notice of Denial (and preceding correspondence to the applicant), is [REDACTED] Houston, TX 77267. A printed notation below the postmark on the envelope reads “Mailed from Zip Code 77060” – which makes no sense since the zip code of the Houston office is 77267.

For all these reasons, the photocopied envelope submitted by the applicant does not appear to be genuine. Accordingly, the AAO is not persuaded that the applicant received her decision for the first time in early January 2007. Since the denial decision was issued on June 8, 2006, the appeal filed by the applicant in late January 2007 was not within the 33-day period prescribed in the regulations.

Based on the applicant’s failure to file a timely appeal, the appeal will be rejected.

**ORDER:** The appeal is rejected.