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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

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[REDACTED]

FILE:

[REDACTED]
MSC 03 245 61324

Office: BALTIMORE

Date:

SEP 09 2008

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:

[REDACTED]

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.

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, Baltimore, Maryland, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The director concluded that the applicant had not established he had applied for class membership in any of the requisite legalization class-action lawsuits prior to October 1, 2000 and, therefore, denied the application.

An affected party filing from within the United States has 30 days from the date of an adverse decision to file an appeal. Form I-290B, Notice of Appeal, shall be used to file the appeal and shall be filed with the office where the unfavorable decision was rendered. 8 C.F.R. § 103.3(a)(2)(i). 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).

The record reflects that the Notice of Decision dated June 17, 2004, was mailed to the applicant at his address of record on June 18, 2004. The district director properly gave notice to the applicant that it had 33 days to file the appeal. Instead of submitting the required Form I-290B, the applicant submitted a letter, which was received at the Baltimore District Office on July 27, 2004. Subsequently, the applicant was advised to submit the required Form I-290B to the Baltimore District Office. The Form I-290B is very clear in indicating that the appeal is not to be sent directly to the AAO. **The applicant, nevertheless, sent his appeal to the AAO.** The appeal is not considered properly received until it is received by the district office, which rendered the unfavorable decision. The appeal was properly received at the respective district office on November 4, 2004, over four months after the decision was issued. Accordingly, the appeal was untimely filed, and must be rejected.

Assuming, arguendo, the applicant had filed the required Form I-290B on July 27, 2004, the appeal would have still been untimely filed as it was received at the respective district office 40 days after the decision was issued.

ORDER: The appeal is rejected as untimely filed.