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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



**U.S. Citizenship
and Immigration
Services**

L2

FILE:

MSC 03 235 61329

Office: LOS ANGELES, CA

Date:

APR 06 2009

IN RE:

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 forwarded to the Citizenship and Immigration Services National Records 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 if the matter was remanded for further action, the record of proceedings was returned to the office that originally issued a decision in your case, and you will be contacted.


John F. Grissom
Acting Chief, Administrative Appeals Office

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the director, Los Angeles, California, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The director concluded that the applicant failed to provide consistent, credible evidence to support her claim that she resided continuously in the United States in an unlawful status throughout the statutory period. For example, the record reflects that the applicant gave birth to a child in Mexico during August 1985. Yet, on the Form I-687, Application for Status as a Temporary Resident, and elsewhere in the record the applicant indicated that she was absent from the United States for a brief period in 1987, but at no other time during the statutory period. Therefore, the director denied the application.

On appeal, the applicant asserted through counsel that the evidence of record, including that submitted on appeal, does establish that she resided continuously in the United States in an unlawful status throughout the statutory period.

Any appeal shall be submitted to the U.S. Citizenship and Immigration Services (USCIS) office that rendered the notice of decision with the required fee. *See* 8 C.F.R. § 245a.20(b). 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).

The record reflects that the director issued the January 23, 2008 notice of decision to the applicant at her address of record. Counsel incorrectly mailed the Form I-290B, Notice of Appeal to the Administrative Appeals Office, with the required fee to the AAO, rather than to the Los Angeles District Office, the USCIS office that rendered the notice of decision. This office returned the Form I-290B and fee to counsel and instructed him that the appeal and accompanying fee must be filed with the Los Angeles District Office. Counsel then filed the Form I-290B with the Los Angeles District Office. Counsel indicated on appeal that the instructions to the Form I-290B indicate that the appeal should be filed with the AAO, and therefore, even though the director instructed the applicant in the notice of decision to file the appeal and the required fee with the Los Angeles District Office, it was not clear where the appeal should be filed. Counsel suggested that, as a consequence, even though he was filing the appeal with the Los Angeles District Office more than 33 days after the issuance of the notice of decision, the appeal should be accepted as timely filed. This assertion is not correct. The regulations specify that a LIFE legalization appeal must be filed with the required fee at the USCIS office that rendered the notice of decision. *See* 8 C.F.R. § 245a.20(b). The notice of decision was issued on January 23, 2008. The appeal in this matter was received by the Los Angeles District Office on March 7, 2008, 44 days after the date that the director mailed the notice of decision. The appeal must be rejected as untimely filed.

ORDER: The appeal is rejected as untimely filed.