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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

[redacted]

FILE: [redacted] Office: FRESNO Date: APR 0 7 2009

MSC 02 235 62077

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.

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, Fresno, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application because the applicant failed to appear for a scheduled interview in connection with his Form I-485 application. The director deemed the application to be abandoned.

On appeal, the applicant asserts that he was working in Sacramento, California, at the time that the appointment letter was received at his mailing address. The applicant asserts that he returned home one day after his scheduled appointment.

The record contains an Appointment Notice, dated May 15, 2003, sent to the applicant's address on record. The notice requested the applicant provide documentation at his interview, scheduled on June 20, 2003. In response, the applicant requested that his interview be rescheduled. The record reflects that the applicant was sent an Appointment Notice on August 25, 2006. The notice requested the applicant provide documentation at his interview, scheduled on September 15, 2006. The record reflects that the applicant did not appear at his scheduled interview.

When an applicant fails to appear for two scheduled interviews, the application will be denied for lack of prosecution. 8 C.F.R. § 245a.19. Upon review, the AAO finds that the applicant failed to appear for his two scheduled interviews. On appeal, the applicant asserts that he received the notice of his second interview the day after his appointment. The AAO finds the applicant's assertion to be insufficient as the record reflects that the notice was mailed to the applicant's address of record. There is no evidence in the record that the applicant requested that his second interview be rescheduled.

As a result, the applicant did not submit the requested documentation by the director and, therefore, has failed to meet his burden. 8 C.F.R. § 245a.12(e). The applicant has failed to establish entry into the United States prior to January 1, 1982, and continuous unlawful residence through May 4, 1988 as required under Section 1104(c)(2)(B) of the LIFE Act. Therefore, he is ineligible for permanent resident status under Section 1104 of the LIFE Act.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.