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U.S. Citizenship  
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Services

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FILE:

Office: HARTFORD

Date: FEB 04 2009

[REDACTED]  
consolidated herein]  
MSC 02 200 63125

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: 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 John F. Vaughan*  
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 in Hartford, Connecticut. It was appealed to the Administrative Appeals Office (AAO). On February 5, 2008, the AAO rejected the appeal as untimely. It is now before the AAO on a motion to reconsider (MTR). The motion will be rejected.

The applicant, a native of Brazil who claims to have lived in the United States since January 1981, filed his application for legal permanent resident status under the LIFE Act (Form I-485) on April 18, 2002. On August 21, 2004, the director denied the application on the ground that the applicant failed to establish that he resided continuously in the United States in an unlawful status from before January 1, 1982 through May 4, 1988, and was continuously physically present in the United States from November 6, 1986 through May 4, 1988, as required under section 1104(c)(2)(B)(i) and (C)(i) of the LIFE 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 Hartford District Office was issued on August 21, 2004, and was sent again on April 25, 2005, to the applicant’s new address. The applicant filed a Notice of Appeal, Form I-290B, which was received by the Hartford District Office on October 26, 2006 – more than two years after the decision was initially issued, and a year and half after a copy of the decision was mailed to the applicant. The appeal was forwarded to the AAO, which rejected the appeal on February 5, 2008, as untimely filed. The applicant has now filed a motion requesting the AAO to reconsider its rejection of the appeal.

The regulation at 8 C.F.R. § 245a.20(c) specifically provides that “[m]otions to reopen a proceeding or reconsider a decision shall not be considered” in proceedings under the LIFE Act. Thus, the applicant’s motion is precluded by the regulation. While the District Director did have the authority, under 8 C.F.R. § 245a.20(c), to reopen or reconsider this case *sua sponte* (i.e., on his own motion) if the record so warranted, no such action was taken. The AAO agrees with the director that the record in this case does not warrant a reopening or reconsideration.<sup>1</sup>

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<sup>1</sup> The crux of the applicant’s argument both in his appeal and in the current motion to reconsider is that he previously received ineffective assistance of counsel. According to the applicant, he was advised by a non-attorney, [REDACTED] who failed to submit timely evidence on his behalf. The record shows, however, that [REDACTED] never filed a Form G-28, Entry of Appearance as Attorney or Representative, as required for her to be recognized as the applicant’s representative. Therefore, the applicant has been self-

Since the applicant is not entitled to file a motion to reopen or reconsider under 8 C.F.R. § 245a.20(c), the AAO must reject his motion.

**ORDER:** The motion to reconsider is rejected. This decision constitutes a final notice of ineligibility.

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represented at every step in this proceeding and is solely responsible for all filings or non-filings on his behalf.

The AAO also agrees with the director's decision to deny the application for failure of the applicant to establish his continuous residence in the United States in an unlawful status from before January 1, 1982 through May 4, 1988, and his continuous physical presence in the United States from November 6, 1986 to May 4, 1988, the requisite time periods for legalization under the LIFE Act, because the only evidence the applicant submitted in response to a notice of "Intent to Deny" was a series of three brief affidavits from acquaintances in 2004, none of whom claims to have known the applicant before the 1990s.