



U.S. Citizenship
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Services

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FILE:

MSC 02 200 62081

Office: NEW YORK

Date: MAR 05 2009

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.


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

The director denied the application because the applicant had failed to establish that he satisfied the "basic citizenship skills" required under section 1104(c)(2)(E) of the LIFE Act.

On appeal, the applicant asserts that he failed the second interview because he could not concentrate due to the death of his father in [REDACTED] and that he was worried for his wife and children. He submits a copy of his father's death certificate. He also asserts that he is enrolled in an English as a Second Language program and would like another opportunity to take the test. He submits a letter from the school as evidence in support of his claim.

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 sent her decision of September 5, 2006, to the applicant at his address of record. It is noted that the applicant filed an appeal with the wrong office. In the Notice of Decision, the director stated that the applicant should file an appeal with "this office listed above." The office listed above is the New York District Office. The director correctly rejected the appeal, which was untimely filed in the proper office 38 days later on October 13, 2006.

On February 19, 2008, the applicant filed a motion to reopen; however, the motion will be rejected. There is no provision in the regulations or statues that provide an applicant with such rights.

It is also noted that even if the appeal had been timely, the appeal would have been summarily dismissed. A review of the decision reveals that the director accurately set forth a legitimate basis for denial of the application. According to the evidence in the record, the applicant was given two opportunities to establish that he satisfied the basic citizenship skills requirements, but he failed on both occasions. There is no provision in the law to grant the applicant additional opportunities.

Therefore, based on the above, the AAO concludes that the appeal was untimely filed.

ORDER: The appeal is rejected as untimely filed.