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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W. MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

L2

FILE:

Office: SAN FRANCISCO

Date: FEB 07 2011

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:

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.


Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the director of the San Francisco office. The applicant subsequently appealed the director's decision to the Administrative Appeals Office (AAO). The AAO dismissed the appeal.¹ The matter is now before the AAO on a motion to reopen/reconsider. The AAO will reject the motion.

The applicant filed a Form I-290B, notice of appeal to the AAO. On July 2, 2008, the appeal was dismissed by the AAO, finding that the applicant had not established by a preponderance of the evidence that he entered the United States before January 1, 1982, and resided in a continuous unlawful status through May 4, 1988. In addition, the AAO dismissed the appeal because the applicant failed to submit arrest records and certified final dispositions of all the applicant's arrests, in response to a request for evidence (RFE).² The applicant has filed a motion to reopen/reconsider, currently before the AAO.

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.³ The applicant has submitted no further legal arguments or evidence on appeal, so the record before the AAO is the same as that previously before it.⁴

While the AAO may *sua sponte* reopen, on its own motion, a matter previously adjudicated, the record reveals no error, either in the adjudication of the application for adjustment to permanent resident status, or the appeal, that would warrant reopening.

Pursuant to 8 C.F.R. § 245a.20(c), the applicant is not entitled to file a motion to reopen/reconsider in his own right. The AAO has determined that the record in this case does not warrant a reopening *sua sponte*. Therefore, the matter will not be reopened. Accordingly, the motion must be rejected.

¹ The record reveals that the applicant's FOIA request, number [REDACTED] was processed on September 20, 2010. In addition, the record reveals that the applicant's FOIA request, number [REDACTED] was processed on September 30, 1994.

² In response to the RFE, counsel stated that the applicant had never been convicted of any crimes, and the applicant submitted an October 2002 letter from the Superior Court of California stating that no criminal case was found, and that misdemeanor records are purged after 10 years.

³ The AAO's decision dismissing the appeal specifically advises the applicant on the cover page that "you are not entitled to file a motion to reopen."

⁴ The applicant challenges the AAO's dismissal of his appeal by submitting his wife's January 5, 2007 polygraph examination results, in which she states that she lived in the United States "consistently" from 1981 through 1995. However, the applicant's wife's polygraph examination results are not relevant either to the grounds for denial of the application, or the stated reason for appeal, as the wife was not questioned regarding the applicant's residence in the United States during the requisite period.

ORDER: The motion to reopen/reconsider is rejected.