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

22

FILE:

MSC 02 254 60075

Office: CHICAGO

Date: AUG 28 2001

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. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the District Director, Chicago, Illinois, and is now before the Administrative Appeals Office on appeal. The case will be remanded for further action and consideration.

The director denied the application because the applicant had not demonstrated that he was physically present in the United States since before January 1, 1982 through May 4, 1988.

The regulation at 8 C.F.R. § 245a.20(a)(2) provides that when an adverse decision is proposed, Citizenship and Immigration Services shall notify the applicant of its intent to deny the application and the basis for the proposed denial. The applicant will be granted 30 days from the date of the notice in which to respond to the notice of intent to deny.

The record, however, does not reflect that a Notice of Intent to Deny was issued prior to the director's Notice of Decision.

Accordingly, the case is remanded for the issuance of a Notice of Intent to Deny and for the entry of a new decision in accordance with the foregoing. If the new decision is adverse, it shall be certified to this office.

Further, the director erred in his determination that the applicant had not established physical presence in the United States from prior to January 1, 1982 through May 4, 1988. An applicant for permanent resident status must establish entry into the United States before January 1, 1982 and *continuous residence* in the United States in an unlawful status since such date and through May 4, 1988. Section 1104(c)(2)(B) of the LIFE Act; 8 C.F.R. § 245a.11(b). An applicant must only establish that he or she was continuously physically present in the United States from November 6, 1986 through May 4, 1988. Section 1104(c)(2)(C) of the LIFE Act; 8 C.F.R. § 245a.11(c).

Additionally, the director erred in his decision when he determined that the applicant submitted sufficient evidence to establish continuous physical presence from January 1, 1982 through January 1, 1985. The applicant's evidence for this period consists of affidavits that lack specificity and whose contents have not been verified by the district office. Further, the employment letters also lack the information required by 8 C.F.R. § 245a.2(d)(3)(i) and nothing in the record indicates that the director has attempted to verify the information provided.

On remand, the director shall address the deficiencies outlined above.

According to documentation in the record, the applicant received an approval notice for the replacement of an I-94, Arrival Document, indicating that he was admitted to the United States on January 8, 1986 until July 7, 1986. The director shall also address this issue on remand.

ORDER: This matter is remanded for further action and consideration pursuant to the above.