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FILE: [REDACTED]
MSC 02 242 61057

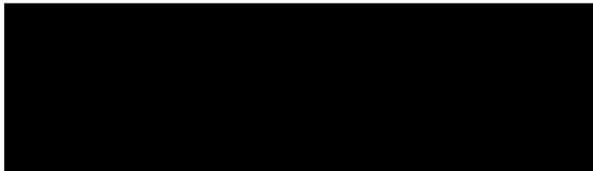
Office: LOS ANGELES

Date: JUL 26 2007

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:



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, Los Angeles, California, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The record reflects that on February 16, 2005, the director denied the application due to abandonment for lack of prosecution because the applicant failed to appear for her scheduled interviews on December 9, 2004 and February 16, 2005.

The regulation at 8 C.F.R. § 245a.19(a) requires that each alien who files an application for adjustment of status under the LIFE Act must be interviewed, except that the interview may be waived when it is impractical because of the health of the applicant or for a child under the age of 14. When an applicant fails to appear for two scheduled interviews, her application shall be denied for lack of prosecution.

The regulation at 8 C.F.R. § 103.2(b)(13) provides that if an individual requested to appear for an interview and Citizenship and Immigrations Services does not receive the individual's request for rescheduling by the date of the interview, the application shall be considered abandoned, and accordingly, shall be denied. A denial due to abandonment may not be appealed. 8 C.F.R. § 103.2(b)(15).

There is no appeal of the director's decision in the present matter. Nevertheless, the record was forwarded to the AAO for adjudication. The director's error, however, does not, and cannot, supersede the regulation regarding the ability of the AAO to consider the appeal. As there is no appeal of the decision in the present matter, the appeal will be rejected.

ORDER: The appeal is rejected.