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U.S. Citizenship
and Immigration
Services

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FILE:

[REDACTED]

Office: NEW YORK

Date: OCT 23 2007

MSC-02-236-65001

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:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has been returned to the National Benefits Center. If your appeal was sustained, or if the matter was remanded for further action, you will be contacted. If your appeal was dismissed, 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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Director
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 New York District Office and that decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The director concluded that the applicant did not demonstrate that he possessed a minimal understanding of ordinary English or knowledge and understanding of the history and government of the United States and therefore did not meet the requirements of 8 C.F.R. § 245a.17 which specify that applicants must possess knowledge and understanding in both of these areas in order to adjust status unless an exception under 8 C.F.R. § 245a.17(c) applies. The director noted that the applicant was given two opportunities to demonstrate this understanding and knowledge. It is noted that exceptions as defined under 8 C.F.R. § 245a.17(c) do not apply to the applicant, as he is not over sixty-five (65) years of age and he has not indicated that he is developmentally disabled as defined under 8 C.F.R. § 245a.1(v). Therefore, the director denied the application.

On appeal, the applicant submits a statement in which he asserts that he believes he filed the Form I-485 in error and should have submitted a Form I-687 instead. He states that schools in New York where he hopes to attend classes to obtain a minimal understanding of English and of the history and government of the United States charge less money to those who obtain Temporary Resident Status. He states that he hopes to be able to attend classes before applying for Permanent Resident Status. The applicant provided no additional evidence or explanation to overcome the reasons for denial of his application.

An affected party filing from within the United States has 30 days from the date of an adverse decision to file an appeal. 8 C.F.R. § 245a.2(p). An appeal received after the 30 day period has tolled will not be accepted. Pursuant to 8 C.F.R. § 245a.20(b) (1), whenever a person has the right or is required to do some act within a prescribed period after the service of notice upon him and the notice is served by mail, three days shall be added to the prescribed period. Service by mail is complete upon mailing. If the last day of the period so computed falls on a Saturday, Sunday or a legal holiday, the period shall run until the end of the next day which is not a Saturday, Sunday, nor a legal holiday. 8 C.F.R. § 1.1(h).

The record reflects that the director sent her decision of May 4, 2005 to the applicant at his address of record. Citizenship and Immigration Services (CIS) received the appeal forty-seven (47) days later on June 20, 2005. Therefore, the appeal was untimely filed. It is noted that the applicant has submitted a letter in which he asserts that his receipt of the director's decision was delayed because the post office delivered it to the wrong address.

It is further noted that as stated in 8 C.F.R. § 103.3(a)(3)(iv), any appeal which is filed that fails to state the reason for appeal, or is patently frivolous, will be summarily dismissed. The applicant has failed to address the reasons stated for denial and has not provided any additional evidence on appeal. Had the applicant's appeal been filed timely it would have been summarily dismissed.

ORDER: The appeal is rejected as untimely filed.