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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

prevent clearly unwarranted
invasion of personal privacy

L2



FILE:



Office: Los Angeles

Date:

DEC 03 2004

IN RE:

Applicant:



PETITION: 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. 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.

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 District Director, Los Angeles, California, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The district director denied the application because the applicant had not demonstrated that he had continuously resided in the United States in an unlawful status since before January 1, 1982 through May 4, 1988.

On appeal, the applicant indicates that he obtained further documentation to support his claim of continuous residence in the United States from prior to January 1, 1982 to May 4, 1988. The applicant submits six affidavits of residence and three photocopied statements of earnings.

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. 8 C.F.R. § 245a.11(b).

An applicant for permanent resident status under section 1104 of the LIFE Act has the burden to establish by a preponderance of the evidence that he or she has resided in the United States for the requisite periods, is admissible to the United States and is otherwise eligible for adjustment of status under this section. The inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. 8 C.F.R. § 245a.12(e).

When something is to be established by a preponderance of the evidence it is sufficient that the proof establish that it is probably true. *See Matter of E-- M--*, 20 I. & N. Dec. 77 (Comm. 1989).

Although the regulations provide an illustrative list of contemporaneous documents that an applicant may submit, the list also permits the submission of affidavits and any other relevant document. 8 C.F.R. § 245a.2(d)(3)(vi)(L).

The applicant is a class member in a legalization class-action lawsuit and as such, was permitted to previously file a Form I-687, Application for Temporary Resident Status Pursuant to Section 245A of the INA in February 1991. The record shows that the applicant was subsequently interviewed regarding the Form I-687 legalization application at the Los Angeles, California District Office of the Immigration and Naturalization Service, or the Service (now Citizenship and Immigration Services, or CIS) on March 16, 1993. During the course of this interview, the applicant testified that he first entered the United States in 1989. Furthermore, the record contains a signed sworn statement that the applicant wrote in his own hand in his native language of Spanish that reads as follows: "Yo entre a los estados Unidos 1989 por primera vez." The English translation of the applicant's statement is as follows: I entered the United States in 1989 for the first time.

While the applicant provides additional documentation in support of his claim of continuous residence in this country, he has made no attempt to explain, address or resolve the fact that he admitted in a signed sworn statement that he did not enter the United States until 1989. In light of the applicant's admission that he did not enter this country until 1989, neither the applicant's claim of continuous residence in the United States

from prior to January 1, 1982 nor the documentation submitted in support of that claim can be considered as credible.

Doubt cast on any aspect of an applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence. It is incumbent upon an applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I. & N. Dec. 582 (BIA 1988).

Given the applicant's own admission that he did not enter the United States until 1989, it is concluded that he has failed to establish continuous residence in this country from prior to January 1, 1982 through May 4, 1988, as required.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.