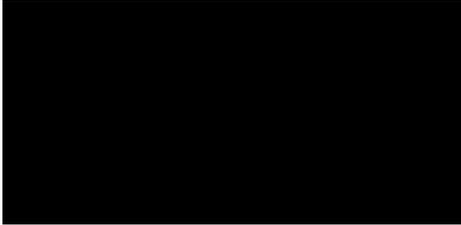




U.S. Citizenship  
and Immigration  
Services

12



DEC 30 2004

FILE: [Redacted] Office: National Benefits Center Date:

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. The file has 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.

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

Robert P. Wiemann, Director  
Administrative Appeals Office

**PUBLIC COPY**

**Identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy**

**DISCUSSION:** The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the District Director, Denver, Colorado, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director noted that the photocopy of the applicant's birth certificate that he had submitted as evidence of his identity and his date of birth appeared to have been altered. The director also noted that the employment letters that the applicant had submitted as evidence that he was continuously present in the United States appeared to be fraudulent. Specifically, the director stated that Citizenship and Immigration Services or CIS (formerly, the Immigration and Naturalization Service or INS) had contacted Amsterdam Printing & Litho Corporation to verify employment and were informed that Mark Temple, the purported writer of the employment letter submitted by the applicant had never worked for that company. The director concluded that the applicant failed to prove that he was physically present in the United States before January 1, 1982 and that he resided continuously in this country in an unlawful status from before January 1, 1982 through May 4, 1988.

On appeal, counsel states that the applicant was born on February 10, 1951 in [REDACTED]. Counsel indicates that he is submitting the original birth certificate of Joseph Asante and forwards a copy of a "Certified True Copy Of Entry In Register Of Births" dated September 3, 1992 signed by the Registrar of Births and Deaths for Ghana indicating that the applicant was born on February 10 1951 in that country. Counsel further states that this same information is listed in the biographical section of the applicant's passport and argues that the birth certificate and passport substantiate [REDACTED] identity as stated on his I-485 application. Counsel also argues that the applicant did not falsify a previously submitted letter of employment and that he has met his burden in demonstrating proof of physical presence in the United States during the proscribed periods.

An applicant for permanent resident status under section 1104 of the LIFE Act must establish that before October 1, 2000, he or she filed a written claim with the Attorney General for class membership in one of the following legalization class-action lawsuits: *Catholic Social Services, Inc. v. Meese*, vacated sub nom. *Reno v. Catholic Social Services, Inc.*, 509 U.S. 43 (1993) ("CSS"), *League of United Latin American Citizens v. INS*, vacated sub nom. *Reno v. Catholic Social Services, Inc.*, 509 U.S. 43 (1993) ("LULAC"), or *Zambrano v. INS*, vacated sub nom. *Immigration and Naturalization Service v. Zambrano*, 509 U.S. 918 (1993) ("Zambrano"). See section 1104(b) of the LIFE Act and 8 C.F.R. § 245a.10.

A threshold requirement for an adjustment of status candidate under the Immigration and Nationality Act is the establishment of an applicant's identity. Along with his life application, the applicant submitted a Republic of Ghana birth certificate issued on March 14, 1963 showing he was born at [REDACTED] on October 2, 1951. (Emphasis supplied.) On appeal, counsel forwards a copy of a Certified True Copy Of Entry In Register Of Births issued on September 3, 1992 signed by the Registrar of Births and Deaths for Ghana showing that he was born in [REDACTED] on February 10, 1951. These two documents do not resolve the issue of the applicant's identity by themselves as they show him to have been born on two separate dates many months apart. Counsel indicates that the register of births document submitted on appeal lists the same information that is shown in the biographical section of the applicant's passport and that the birth certificate and passport substantiate [REDACTED] identity. However, a copy of the applicant's passport containing the biographical

section cited by counsel is not a matter of record. The assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). It is determined that to date, the applicant has not provided acceptable forms of identification to establish his identity. Therefore, the applicant is ineligible for permanent resident status under section 1104 of the LIFE Act for this reason.

To be eligible for adjustment to permanent resident status under the LIFE Act, the applicant must also establish his continuous unlawful residence in the United States from before January 1, 1982 through May 4, 1988, and his continuous physical presence in the United States from November 6, 1986 through May 4, 1988.

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. *See* 8 C.F.R. § 245a.12(e).

On June 15, 1992, the applicant submitted a photocopy of a Form I-687 Application for Status as a Temporary Resident under section 245A of the INA signed by him on June 15, 1992. In support of that application, he forwarded a copy of a letter purportedly written by Mark Temple, manager of Amsterdam Printing & Litho Corp. in Amsterdam, New York, dated January 24, 1992 indicating that the applicant was an employee of the company from June 1979 to November 1983. On February 2, 1994, an officer of CIS spoke on the telephone with an employee of the Human Resources Department of Amsterdam Printing & Litho Corporation to verify the employment letter. The employee checked her computer back to 1989 and informed the officer that she could not verify the author of the letter, as he had not worked for the corporation. On appeal counsel indicates that on September 9, 2003, counsel spoke directly with the Human Resources Manager of Amsterdam Printing and at that time, it was impossible to substantiate the employment of any employee prior to 1996 when all employment records were destroyed due to the company's acquisition by Taylor Corporation. In this case, there have been two independent attempts to verify the employment letter provided for the record by the applicant. The first verification attempt was made by a CIS officer about two years after the letter was purportedly written and the second verification was made by counsel. Neither attempt successfully established that the applicant had worked for Amsterdam Printing & Litho Corp. It is determined the applicant has not adequately addressed and overcome the director's finding concerning this critical letter.

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).

An applicant for permanent resident status must establish entry into the United States before January 1, 1982. *See* 8 C.F.R. § 245a.11(b).

The record contains an affidavit by the applicant dated May 5, 2003 in which he stated, in part:

2. I arrived in Canada by cargo ship from Ghana in January 1979. A friend in Ghana secured my passage on the ship. Once we docked, I went by car to Toronto for only a few weeks.
3. About two weeks later still in January 1979, I rode in a car with a Ghanaian friend whose last name was "[REDACTED]". We drove across the U.S.-Canada border at Buffalo. We were stopped by the border officials who asked a few questions and only checked the documents of my friend and allowed our entry in the U.S.

As stated above, the inference to be drawn from the documentation provided shall depend on the *extent* of the documentation. The extremely minimal evidence furnished cannot be considered extensive, and in such cases a negative inference regarding the claim may be made as stated in the regulations at 8 C.F.R. § 245a.2(12)(e).

In *Matter of E-- M--*, *supra*, the applicant had established eligibility by submitting (1) the original copy of his Arrival-Departure Record (Form I-94), dated August 27, 1981; (2) his passport; (3) affidavits from third party individuals; and (4) an affidavit explaining why additional original documentation is unavailable. Unlike the *Matter of E-M-*, the present applicant has only been able to submit affidavits from third party individuals. Furthermore, the officer who interviewed that applicant recommended approval of the application, albeit, with reservations and suspicion of fraud. In the present case, however, the officer interviewing the applicant's eligibility recommended denial of the application.

Given the absence of credible documentation establishing his entry into the United States before January 1, 1982, along with the applicant's presentation of specious identity and employment documentation, it is concluded that he has failed to establish timely entry and continuous residence in the U.S. for the required period.

Accordingly, the applicant is ineligible for permanent resident status under section 1104 of the LIFE Act.

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