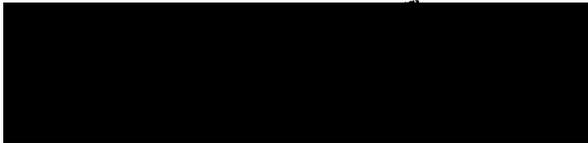




U.S. Citizenship
and Immigration
Services



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Office: PORTLAND Date:

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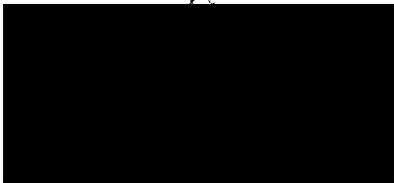
Applicant:



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:



Administrative Appeals Office
Division of Administrative Services
DIVISION OF ADMINISTRATIVE SERVICES

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, Director
Administrative Appeals Office

PUBLIC COPY

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the District Director, Portland, Oregon, 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 entered the United States prior to January 1, 1982.

On appeal, counsel asserts that because of the applicant's young age when he came to the United States, he was forced to work his entire life and was unable to accumulate documentation pursuant to 8 C.F.R. § 245a.2(d)(3).

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 Citizenship and Immigration Services (CIS) 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).

In an attempt to establish that he entered United States prior to January 1, 1982, and resided continuously through May 4, 1988, the applicant submitted the following documentation:

- (a) an affidavit dated April 10, 1990 from [REDACTED] who indicated that the applicant resided at her home in Bell Gardens, California from May 1981 to 1984;
- (b) affidavits from [REDACTED] and [REDACTED] who stated they have been acquainted with the applicant since 1984, and that the applicant had resided in their home in Bell Gardens, California from June 1984 through December 1989;
- (c) an affidavit from [REDACTED] who asserted that the applicant was his neighbor from 1984 through 1991; and
- (d) a letter from [REDACTED] who stated that he has known the applicant since January 1984, and had employed the applicant at his company, Rapid Express from 1988 through 1990;

The director determined that the documentation submitted was insufficient to establish entry prior to January 1, 1982 and continuous residence through May 4, 1988. In response to a Notice of Intent to Deny issued on May 3, 2003, counsel provided copies of the affidavits that were previously submitted along with new affidavits from [REDACTED] and [REDACTED] and [REDACTED] who reiterated their previous declarations. Counsel also provided an additional affidavit from [REDACTED] who claimed that prior to the applicant's 1981 entry into the United States, "he had been an orphan and was living with his elderly grandmother."

On appeal, counsel submitted additional affidavits from [REDACTED] and [REDACTED] who now attest to the applicant's entry into the United States prior to January 1, 1982. Mr. [REDACTED] asserts that he has personal knowledge that the applicant resided with his close friend, [REDACTED] in her home from May 1981. Mr. [REDACTED] further asserts that due to the applicant's young age in 1981, he was unable to maintain a job, had no bills, never visited a physician or a hospital, and was too poor to attend school.

The affidavits submitted on appeal from [REDACTED] and [REDACTED] can be given little weight as evidence to establish the applicant's residence in the United States prior to January 1, 1982 as they contain information that was available, yet never mentioned in two prior affidavits. The affidavits from [REDACTED] and [REDACTED] along with the affidavits of [REDACTED] and [REDACTED] may be viewed as attempts to establish the applicant's presence and residence in the United States since 1984, but do not conclusively prove his residence prior to January 1, 1982.

[REDACTED] most recent affidavit, in which she states that the applicant was an orphan, has little evidentiary weight or probative value as it contradicts items 20 and 21 on the applicant's Form I-687 Application dated April 10, 1990, which indicate that both parents were living at the time. In addition, the record reflects that on March 8, 1996, the applicant requested a copy of his administrative file. On this request the applicant indicated his date of entry into the United States as "May 1986." This statement further undermines Ms. [REDACTED] affidavits stating that the applicant was in the U.S. prior to January 1, 1982.

Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the 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).

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

Given the absence of any contemporaneous documentation, along with the applicant's reliance on a single affiant to prove his residence prior to January 1, 1982, it is concluded that he has failed to establish continuous residence in the U.S. for the required period.

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