

L2



U.S. Citizenship  
and Immigration  
Services

[Redacted]

FILE: [Redacted]

Office: Houston

Date: **NOV 12 2004**

IN RE: Applicant: [Redacted]

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:

[Redacted]

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

Form I-687 application at the Houston Legalization Office on January 26, 1991. The notes of the interviewing officer indicate that the applicant's claim to "LULAC" class membership was determined to be credible.

The record shows that the applicant subsequently filed her Form I-485 LIFE Act application on June 2, 2002. While the applicant has submitted evidence including contemporaneous documentation that tends to corroborate her claim of continuous residence in the United States since January 1985, the applicant failed to submit any evidence to establish residence in this country prior to such date. The applicant provided photocopied pages from her Mexican passport that reflect that she was issued a Mexican Border Crossing Identification Card and B-1/B-2 Nonimmigrant Visa by the United States Embassy in Mexico City, Mexico on January 14, 1985, and that she subsequently entered the United States at Hidalgo, Texas on January 26, 1985. Moreover, with her Form I-485 LIFE Act application the applicant included a Form G-325A, Record of Biographic Information, in which she specified that she had lived in her native Mexico from her date of birth on January 6, 1961 to January 1985.

A review of the record reveals that the applicant appeared for the requisite interview relating to her LIFE Act application at the Houston District Office on May 6, 2003. During the course of this interview, the applicant testified that her first entry into the United States occurred on January 26, 1985 at Hidalgo, Texas, utilizing the Mexican Border Crossing Identification Card and B-1/B-2 Nonimmigrant Visa described above, and that she had not entered this country prior to 1985. Furthermore, the record contains a signed sworn statement from the applicant in which she reiterated that her first entry into the United States occurred on January 26, 1985 and that she had not entered this country prior to 1985.

On November 20, 2003, the district director issued a notice of intent to deny informing the applicant that her application would be denied as a result of the testimony and sworn statement she provided at the interview in which she admitted she did not enter the United States until January 26, 1985. The applicant was granted thirty days to respond to the notice and overcome the stated basis for the intended denial. In response, counsel submitted a statement on the applicant's behalf and an affidavit of residence signed by [REDACTED]. [REDACTED] stated that she has personal knowledge that applicant resided in the United States since 1981 because they lived together at an address in Webster, Texas from 1981 to 1987. However, it must be noted that the applicant only provided this single piece of evidence in support of her claim of continuous residence in the United States from November 1981 to January 1985, after she had been confronted with her prior admission that she first entered the United States on January 26, 1985. Neither the applicant nor counsel offered any explanation as to why [REDACTED] affidavit was not submitted with her LIFE Act application as applicants were instructed to provide qualifying evidence *with* their applications and the applicant did include other supporting documentation with her LIFE Act application.

Counsel declared that the applicant did not admit that she first entered the United States on January 26, 1985, but rather she admitted that her first legal entry into the country occurred on this date when she entered using the fraudulently obtained visa discussed above. Counsel asserts that the applicant was merely returning to an unrelinquished, unlawful residence in the United States that began with her initial entry in November 1981. Counsel contends that the applicant previously submitted a Form I-690, Application for Waiver of Grounds of Inadmissibility, to overcome any grounds of inadmissibility that applied to the applicant when she entered the United States on January 26, 1985 utilizing the Mexican Border Crossing Identification Card and B-1/B-2 Nonimmigrant Visa. However, a review of the Form I-690 waiver application referred to by counsel reveals that the applicant specified she had fraudulently obtained a visa to enter the United States on January 26, 1991