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U.S. Citizenship  
and Immigration  
Services



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NOV 30 2004

FILE:



MSC-02-173-61471

Office: LOS ANGELES, CALIFORNIA

Date:

IN RE: 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:

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.

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 Interim District Director, Los Angeles, California. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The Interim District Director concluded that the applicant had not established that he resided in the United States in a continuous unlawful status from before January 1, 1982, through May 4, 1988, as required by section 1104(c)(2)(B) of the LIFE Act. Therefore, the Interim District Director concluded the applicant was ineligible for permanent resident status under the LIFE Act and denied the application accordingly. See *Interim District Director's Decision* dated August 1, 2003.

On appeal, the applicant asserts that the Interim District Director erred in stating that he left the United States in December 1983 and June 1984 in order to visit his family in Pakistan. In addition the applicant states that he visited Pakistan only once, to visit his terminally ill father, from September 8, 1998, to October 21, 1998, with advance parole. Furthermore the applicant states that he was illegally present in the United States from January 1981 to 1984 and he reiterates that he has never been outside the United States except for the period from September 8, 1998 to October 21, 1998.

The applicant's statement is not persuasive. The record of proceedings reveals that the applicant signed an Application for Status as a Temporary Resident (Form I-687) on June 12, 1990. On the Form I-687 the applicant indicates three absences from the United States since his entry: a trip to Pakistan from December 10, 1983 to March 2, 1984; another trip to Pakistan and Abu Dhabi from June 15, 1984 to September 8, 1984; and a trip to Canada from August 14, 1987, to September 10, 1987. In addition, the record of proceedings contains copies of the applicant's passport and an I-94. The copies of the applicant's passport reveal that on June 23, 1984 he was issued a B-2 nonimmigrant visa in Abu Dhabi. The record further reveals that the applicant was admitted as a visitor for pleasure on September 8, 1984, with an authorized stay until March 7, 1985. Furthermore the record of proceedings reveals that the applicant applied for a change of status from a visitor for pleasure to a student, which was approved on April 17, 1985.

One of the requirements for an applicant to be eligible for adjustment to permanent resident status under the LIFE Act, is that he must establish his continuous unlawful residence in the United States from before January 1, 1982 through May 4, 1988. The pertinent statutory provisions read as follows:

Section 1104(c)(2)(B) – Continuous Unlawful Residence

(i) In general – The alien must establish that the alien entered the United States before January 1, 1982, and that he or she has resided continuously in the United States in an unlawful status since such date and through May 4, 1988. In determining whether an alien maintained continuous unlawful residence in the United States for purposes of this subparagraph, the regulations prescribed by the Attorney General under section 245A(g) of the Immigration and Nationality Act that were most recently in effect before the date of the enactment of this Act shall apply.

The “continuous unlawful residence” provision of the statute is further defined in the following pertinent regulations:

8 C.F.R. § 245a.15(c)(1) – Continuous residence

An alien shall be regarded as having resided continuously in the United States if no single absence from the United States has exceeded forty-five (45) days, and the aggregate of all absences has not exceeded one hundred and eighty (180) days between January 1, 1982, and May 4, 1988, unless the alien can establish that due to emergent reasons, his or her return to the United States could not be accomplished within the time period allowed.

Based on the record of proceedings it has been determined that the applicant failed to establish his continuous unlawful residence in the United States from before January 1, 1982 through May 4, 1988, as required by section 1104(c)(2)(B) of the LIFE Act. In particular, it was found that the applicant traveled outside the United States on three separate occasions. Two of his trips were more than 80 days each and the aggregate of all his absences was more than 180 days. These absences exceeded the limits prescribed by 8 C.F.R. § 245a.15(c)(1) for "continuous residence" in the United States. In addition, the applicant's return to the United States on a B-2 nonimmigrant visa on September 8, 1984, indicates that he was in lawful status for a period thereafter, further diminishing the continuity of his unlawful residence in the United States between January 1, 1982 and May 4, 1988.

Based on the above facts, it is concluded that the applicant does not meet the statutory requirements, set forth in section 1104(c)(2)(B)(i) of the LIFE Act, of having maintained continuous unlawful residence in the United States from before January 1, 1982 through May 4, 1988.

Therefore, 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.