



U.S. Citizenship
and Immigration
Services

Handwritten mark

[Redacted]

FILE: [Redacted]

Office: Milwaukee, Wisconsin

Date: **OCT 26 2004**

IN RE: Applicant: [Redacted]

APPLICATION: Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration and 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. The file has been returned to the Milwaukee office. 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

PUBLIC COPY

Identifying data deleted to
prevent disclosure of information
pertaining to the identity of

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

The district director concluded that the applicant failed to establish that he entered the United States before January 1, 1982 and resided continuously in the United States an unlawful status from before January 1, 1982 through May 4, 1988.

On appeal counsel submitted an affidavit from an individual claiming to have known the applicant since 1986 and a letter from the Sikh Religious Society of Chicago already in the record asserting that the applicant became a member in 1981. Counsel contends that the record adequately establishes the applicant's continuous U.S. residence from before January 1, 1982 through May 4, 1988.

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.

The record indicates that the applicant filed a timely claim for class membership in CSS.

An applicant for permanent resident status under section 1104 of the LIFE Act must also establish that he or she entered the United States before January 1, 1982 and resided in this country continuously in an unlawful status from before January 1, 1982 through May 4, 1988. See section 1104(c)(2)(B)(i) of the LIFE Act and 8 C.F.R. § 245a.11(b).

8 C.F.R. § 245a.12(e) provides that "[a]n alien applying for adjustment of status under [section 1104 of the LIFE Act] has the burden of proving by a preponderance of the evidence that he or she has resided in the United States for the requisite periods. . . . The inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification." As explained in *Matter of E-M-*, 20 I & N Dec. 77, 80 (Comm. 1989), "when something is to be established by a preponderance of the evidence it is sufficient that the proof only establish that it is probably true." The decision went on to declare that, in the absence of contemporaneous documentation, affidavits are "relevant documents" which warrant consideration in legalization proceedings. *Id.* at 82-83. Preponderance of the evidence has also been defined as "evidence which as a whole shows that the fact sought to be proved is more probable than not." Black's Law Dictionary 1064 (5th ed. 1979).

The applicant claims to have entered the United States without inspection in June 1981. In the I-687 form he filed with the Immigration and Naturalization Service (INS) in 1990 in connection with his class membership claim in CSS, however the applicant provided no information about where he had resided and where he had been employed during the 1980s. In fact, the applicant furnished no documentation whatsoever of his alleged presence in the United States during the time period 1981 to 1988. After filing his LIFE application (in August 2001) the applicant, in an interview at the INS office in Milwaukee on March 19, 2002, submitted a photocopy of a letter from the Sikh Religious Society of Chicago, signed by the executive secretary, Harjap Singh Sangha, and dated "4/15/87" stating the applicant "has been a member of our Society since June 81. [The applicant] has paid annual fee[s] for membership from June 1981 to April 1985." The original of this letter was submitted on appeal, along with an affidavit by Gurdeep Singh Dhiller, a resident of Oak Creek, Wisconsin, dated April 29, 2003, who declared that he met the applicant in Milwaukee in 1986. According to

the affiant the applicant, whom he described as “unemployed and work[ing] sparingly at odd jobs,” moved in with him at [REDACTED] and that they lived together at that address from 1986 to 1990.

The foregoing documents are the only evidence of the applicant’s residence in the United States during the 1980s. In the AAO’s view, they do constitute persuasive evidence that the applicant resided continuously in the United States for the time period required under the LIFE Act. No explanation has been provided as to why the letter from the Sikh Religious Society of Chicago, ostensibly dated April 15, 1987, was not presented to the INS until fifteen years later, in 2002. Nowhere in the record has the applicant even asserted that he resided in Chicago between 1981 and 1985. He has provided no residential addresses or employment addresses for that time period, nor any corroborative affidavit(s) from individuals confirming that the applicant resided in Chicago during those years. As for the 2003 affidavit of Gurdeep Singh Dhiller, he only claims to have known the applicant in Milwaukee as of 1986. The affiant indicates no knowledge of the applicant’s whereabouts prior to 1986.

The AAO determines that the applicant has not met his burden of proof. He has not established, by a preponderance of the evidence, that he entered the United States before January 1, 1982 and resided continuously in the United States in an unlawful status from before January 1, 1982 through May 4, 1988, as required by section 1104(c)(2)(B)(i) of the LIFE Act and 8 C.F.R. § 245a.12(e)

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

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