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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:



Office: Los Angeles

Date: 4/21/08

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 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

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

The director indicated that during her interview the applicant stated that she first entered the United States in 1976 with her children and that she departed from this country one time in 1987. The director noted that school record for [REDACTED] the applicant's oldest son, indicated that he attended a school named Juan Escutia in Mexico prior to 1984. The director also noted that the applicant had submitted a utility bill and social security printouts under her mother's name. The director determined that the applicant's testimony and evidence lacked credibility. The director concluded that the applicant failed to prove that she was physically present in the United States before January 1, 1982 and that she resided continuously in this country in an unlawful status from before January 1, 1982 through May 4, 1988.

On appeal, the applicant states:

Is based on the fact that I provide adequate prima facie evidence that I have resided continuously in the United States on or before January 1, 1982 with the exception of a brief, casual and innocent visit to Mexico to give birth to my oldest son and again to visit my family. Since I worked with my mother's social security number printout under my mother's name. I also submitted school records of my oldest son. I strongly believe I submitted the required amount of document's needed. Your kind assistance would be greatly appreciated.

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).

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).

On appeal, the applicant does not respond to the director's note that during her interview the applicant stated that she first entered the United States in 1976 with her children and that she departed from this country one time in 1987 but that the school record for Raul Valencia, the applicant's oldest son, indicated that he attended a school named [REDACTED] in Mexico prior to 1984.

The record reveals that in an attempt to show that she had been working in the United States prior to January 1, 1982 and until May 29, 1985, the applicant submitted a letter dated March 9, 1990 from "Personnel" signed by [REDACTED] Industries Inc. located in Los Angeles. The letter states:

[REDACTED] had been an employee of Dial Industries Inc. from 3/10/76 to 5/29/85. She worked here as a machine operator earning at the time she left \$4.10 an hour.

The record shows that at her interview, the applicant stated that she worked at Dial industries from 1981 to 1985 using her mother's social security number. The record contains a copy of her mother's social security earnings for the years 1973 through 1991 that she submitted to substantiate her claim. However, the earnings statement only show income earned for the years 1973, 1976 and 1977. The social security earnings statement and the Dial Industries Inc. letter do not support her assertion that she was employed in the United States from 3/10/76 to 5/29/85 and that she worked under her mother's social security number at that time. Had she done so, earnings would have been shown on the account for every year up to 1985.

The only other evidence that the applicant submitted to show that she had been in the United States since before January 1, 1982 is a note dated March 12, 1990 written by [REDACTED] on a prescription form certifying that [REDACTED] had been a patient in his office "since May, 1980 to October, 1989. 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).

Given the absence of any convincing documentation establishing her entry into the United States before January 1, 1982, along with the applicant's presentation of specious employment documentation, it is concluded that she 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 application is dismissed. This decision constitutes a final notice of ineligibility.