

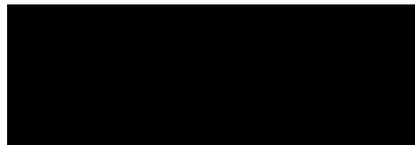
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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



LR

FILE: [Redacted]

Office: Los Angeles

Date: **AUG 15 2005**

IN RE: Applicant: [Redacted]

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. 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

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 (AAO) on appeal. The appeal will be dismissed.

The district director denied the application because the applicant had not demonstrated that he had continuously resided in the United States in an unlawful status from before January 1, 1982 through May 4, 1988.

On appeal, the applicant asserts that he has submitted sufficient evidence to support his claim of continuous residence in this country since prior to January 1, 1982. The applicant contends that any discrepancy relating to his date of initial entry into the United States is the result of nervousness and his lack of competence in the English language. The applicant includes additional documentation in support of his claim of residence.

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. 8 C.F.R. § 245a.12(e). When something is to be established by a preponderance of evidence it is sufficient that the proof only establish that it is probably true. See *Matter of E-- M--*, 20 I. & N. Dec. 77 (Comm. 1989).

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).

Although the 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. See 8 C.F.R. § 245a.2(d)(3)(vi)(L).

The applicant is a class member in a legalization class-action lawsuit and as such, was permitted to previously file a Form I-687, Application for Temporary Resident Status Pursuant to Section 245A of the Immigration and Nationality Act (INA) on or about October 2, 1991. On the "Form for Determination of Class Membership in *CSS v. Meese*" that was included with the Form I-687 application, the applicant claimed that he first entered and began residing in this country after entering without inspection in January 1980. In support of his claim of residence in this country since prior to January 1, 1982, the applicant submitted a letter of employment.

A review of the record reveals that the applicant appeared for an interview relating to his application for temporary residence (Form I-687) at the Immigration and Naturalization Service's, or the Service's (now Citizenship and Immigration Services, or CIS) Los Angeles, California, Legalization Office on August 10, 1993. During the course of this interview, the applicant testified under oath that he first entered the United

States in 1986. In addition, the applicant provided a statement written in his own hand in his native language of Spanish that reads as follows: "Yo entre por primera [b]es a los estados unidos 86." The applicant's statement can be best translated into English as follows: I entered for the first time to the United States in 1986.

The record shows that the applicant subsequently filed his LIFE Act application on April 2, 2002. In support of his claim of continuous residence in this country since prior to January 1, 1982, the applicant submitted two additional affidavits of residence and another letter of employment.

As noted above, on the class membership determination form that was included with the Form I-687 application, the applicant claimed to have entered the United States in January 1980 and to have resided in the United States from this date through to May 4, 1988. However, a review of the record revealed that the applicant previously submitted a Form I-589, Request for Asylum, to the Service on January 9, 1995. At part #12 of the Form I-589 asylum application where applicants were asked to list the date of their arrival in the United States, the applicant specified that he entered this country in January 1988. Additionally, at part #26 of the Form I-589 asylum application where applicants were asked to list the date of their departure from their country of origin, the applicant listed January 1988. Moreover, on the Form G-325A, Report of Biographic, that was included with the Form I-589 asylum application, the applicant specified that he resided in his native Mexico from his birth in January 1964 until January 1988.

Both in response to the notice of intent to deny and on appeal, the applicant submits a statement in which he claims that any conflict relating to his initial date of entry into this country was the result of nervousness and his lack of competence in the English language. However, the applicant's explanation cannot be viewed as sufficient to overcome the fact that he provided a sworn statement in his native language of Spanish dated August 10, 1993, in which he admitted that he entered the United States for the first time in 1986. The applicant has provided further contradictory testimony regarding the date he initially entered this country by claiming that he entered in January 1988 on the Form I-589 asylum application that was subsequently submitted on January 9, 1995. This contradictory information negates the probative value of any testimony contained with supporting documentation provided in these current proceedings that attests to the applicant's residence in this country from prior to January 1, 1982 to May 4, 1988.

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).

Given the outright and direct contradictions and conflicts in testimony and the applicant's admission that he resided in his native Mexico until January 1988, it is concluded that he has failed to establish continuous residence in an unlawful status in the United States from prior to January 1, 1982 through May 4, 1988, as required.

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