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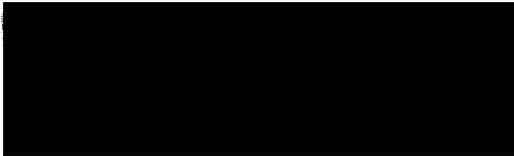
Applicant:



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:



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. Any further inquiry must be made to that office.

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

On appeal, counsel asserts that the applicant has submitted sufficient documentation establishing continuous residence in the United States from prior to January 1, 1982 through May 4, 1988. Counsel provides additional documentation in support of the appeal.

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. 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).

In an attempt to establish continuous unlawful residence since before January 1, 1982 through May 4, 1988, the applicant provided the following evidence throughout the application process:

- Affidavits from [REDACTED] and [REDACTED] who indicated that they have known the applicant since 1981 and attested to her residences in Livingston and Riverside, California.
- An affidavit from [REDACTED] who attested to the applicant's residences in Livingston and Riverside, California. The affiant asserted, "I have supported from August 1981 to August 1983 and paid for all [sic] his needs and benefits."
- An affidavit from [REDACTED] who indicated that the applicant resided at his residence for about three months during 1982.
- A letter dated March 12, 2002 from [REDACTED] a medical doctor in Riverside, California who indicated that the applicant has been under his care since January 1987.
- An affidavit notarized February 21, 2002 from [REDACTED] who attested to the applicant's residence in Livingston, California from 1981 to 1989. The affiant asserted that they have been neighbors and attended the same Gurudawara in Livingston, California from 1981 to 1985.

- Two envelopes postmarked in 1981 and 1982 to the applicant's residence in Livingston, California.

The two receipts from Circle K issued in 1981 submitted by the applicant have no evidentiary weight or probative value as neither receipt contains the applicant's name.

The director issued a Notice of Intent to Deny dated June 17, 2004, informing the applicant that the documentation presented did not establish she had entered prior to January 1, 1982 and resided continuously through May 4, 1988. The applicant, in response, provided an additional letter from [REDACTED] who indicated the applicant had been in his care in 1987 and 1988.

On appeal, the applicant submitted:

- An additional affidavit from [REDACTED] who indicated that he has personally known the applicant since January 1982 and that the applicant and her spouse resided with him from January 1982 to April 1982. [REDACTED] further indicated that the applicant and her spouse rented their own place at [REDACTED] from April 1982 to December 1989 or January 1990. [REDACTED] asserted that the applicant has departed the United States five times (February 1983, June 1984, October 1985, October 1987 and April 1993) for durations ranging from three weeks to three months.
- An affidavit from [REDACTED] who indicated that he has known the applicant since 1985. The affiant stated that the applicant "moved to Riverside, California around January 1990." The affiant asserted that they attend each other's birthdays, anniversaries, graduations, etc. The affiant attested to the applicant's three absences (October 1985, October 1987 and April 1993) from the United States.
- An additional affidavit from [REDACTED] who indicated that the applicant was treated at his office in Riverside, California on five occasions (December 2 & 10, 1987, January 28, 1988, February 26, 1988 and March 2, 1988).
- A letter dated August 3, 2004 from [REDACTED] vice-president of Highglow Corporation in Artesia, California who indicated the applicant has been a loyal customer of its jewelry store since 1984.

The applicant has provided the following documents, which have raised questions of credibility.

1. The affidavits from [REDACTED] and [REDACTED] claim to have known the applicant since 1981, but referred to the wrong gender when describing the applicant.
2. The affidavits from [REDACTED] and [REDACTED] attested to the applicant's residence in Livingston, California from August 1981 to August 1983 and in Riverside, California since August 1983; however, [REDACTED] in his additional affidavit, asserted that the applicant has been residing in Riverside since April 1982.

3. [REDACTED] affidavit contradicts Mr. Srivastva's affidavit as he indicates that the applicant resided in Livingston and did not move to Riverside until 1990.
4. [REDACTED] indicated that the applicant resided with him from August 1981 to August 1983 in Livingston; however, [REDACTED] indicated that the applicant resided at his residence from January 1982 to April 1982 and moved to Riverside in April 1982.
5. The applicant does not claim any residence in Livingston, California on her Form I-687 application.

As there is a significant distance between Livingston and Riverside coupled with the fact that no lease agreement was submitted to corroborate [REDACTED]'s claim that the applicant and her spouse "rented their own place" along with the contradictions between the affiants raises a significant issue to the legitimacy of the applicant's residence in the United States from 1981 to 1988.

Doubt cast on any aspect of an applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence. It is incumbent upon an 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 numerous credibility issues arising from the documentation provided by the applicant, it is determined that the applicant has not met her burden of proof. The applicant has not established, by a preponderance of the evidence, that she entered the United States before January 1, 1982 and resided in this country in an unlawful status continuously from before January 1, 1982 through May 4, 1988, as required under 1104(c)(2)(B)(i) of the LIFE Act and 8 C.F.R. § 245a.11(b). Given this, the applicant is ineligible for permanent resident status under section 1104 of the LIFE Act.

Beyond the decision of the director, it must be noted that the applicant, at the time of her LIFE interview on April 30, 2004, informed the interviewing officer of her absences from the United States during the requisite period as follows:

- February 1983 to May 1983 for the birth of her child on March 26.
- June 1984 to September 1984 for the birth of her second child on July 27.
- October 1985 to January 1986 for the birth of her third child on December 13.
- October 1987 to November 20, 1987 to visit her mother-in-law.

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 exceed 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. 8 C.F.R. § 245a.15(c)(1).

Except for the 1987 absence, the applicant's alleged three absences were far in excess of the 45-day limit for any one absence from the United States, as specified in 8 C.F.R. § 245a.15(c)(1) and, therefore, would rendered the applicant ineligible for the benefit being sought. As the appeal will be dismissed on the grounds discussed above, this issue need not be examined further.

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