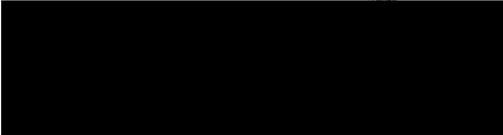


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FILE: [Redacted]

Office: Los Angeles

Date: AUG 30 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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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 before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The district director denied the application because the applicant had not established that she 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.

On appeal, the applicant reaffirms her claim that she continuously resided in the United States for the requisite period. The applicant includes a copy of her statement that had previously been submitted in response to the notice of intent to deny, as well as a new affidavit of residence.

An applicant for permanent resident status under the LIFE Act 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. *See* § 1104(c)(2)(B) of the LIFE Act and 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).

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).

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. 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 March 29, 1996. At part [REDACTED] I-687 application, where applicants were asked to provide information regarding their immediate family, the applicant indicated that her daughter, [REDACTED] had been born in Morelos, Mexico on February 19, 1986. However, at part #35 of the Form I-687 application where applicants were asked to list all absences from the United States beginning from January 1, 1982, the applicant listed only one absence from this country in the period from January 1, 1982 to May 4, 1988, when she traveled to Mexico because of a family emergency from May 10, 1987 to June 11, 1987. The applicant failed to provide any explanation as to how her only claimed absence from the United States occurred from May 10, 1987 to June 11, 1987, when she had given birth to her daughter in Mexico on February 19, 1986. This discrepancy seriously undermines the applicant's claim of continuous residence in the United States for the period in question.

The record shows that the applicant subsequently filed her Form I-485 LIFE Act application to the Immigration and Naturalization Service, or the Service (now Citizenship and Immigration Services, or CIS) on May 31, 2002. With her LIFE Act application, the applicant included a copy of a Mexican birth certificate reflecting that her daughter, [REDACTED] had been born on February 19, 1986 in [REDACTED] Mexico, and that such birth had been subsequently registered in the same municipality on September 18, 1986. This

document also reflects that this child's birth was registered by her parents as that portion of the birth certificate entitled "Person Distinct from the Parents that Presented to the Registrar" was left blank.

In support of her claim of continuous residence in this country since prior to January 1, 1982, the applicant submitted three employment letters, and an affidavit of residence.

The record further shows that the applicant subsequently appeared for the requisite interview relating to her LIFE Act application at the Los Angeles, California District Office on April 5, 2004. The notes of the interviewing officer reflect that the applicant testified under oath that her only absence from the United States during the requisite period from January 1, 1982 to May 4, 1988, occurred due to her mother's illness in May 1987.

On June 18, 2004, the district director issued a notice of intent to deny to the applicant informing her of the CIS' intent to deny her LIFE Act application. The district director indicated that the birth certificate of the applicant's daughter, [REDACTED] demonstrated that she had had been absent from the United States when she gave birth to this child in Mexico on February 19, 1986. The district director determined that this information directly contradicted the applicant's testimony at her interview on April 5, 2004, as well as the listing of a single absence from this country in 1987 on her Form I-687 application. The district director concluded that such contradiction seriously undermined the credibility of the applicant's claim of residence in this country for the period in question because she failed to disclose this absence and consistently testified that she was only absent from this country during the requisite period when she visited Mexico in 1987. The applicant was granted thirty days to respond to the notice.

In response, the applicant submitted a statement in which she admitted that she had been absent from the United States for twenty days from February 5, 1986 to February 25, 1986, and that she had given birth to her daughter in Mexico during this period before returning to this country. The applicant claimed that her parents subsequently registered her daughter's birth with Mexican civil authorities some seven months later in September 1986. The applicant is correct in stating that the birth certificate of her daughter clearly establishes that she was born on February 19, 1986 in Yecapoxtla, Morelos, Mexico, and that such birth had been subsequently registered in the same municipality on September 18, 1986. However, the birth certificate also reflects that the child's birth was registered by her parents because that portion of the birth certificate entitled "Person Distinct from the Parents that Presented to the Registrar" was left blank. The birth certificate of the applicant's daughter contains no evidence that her birth was registered by any other individuals other than her natural parents, the applicant and her spouse.

The district director determined that the applicant seriously impaired her claim of residence in United States during the period in question by failing to disclose that she had been absent from this country when she gave birth to her daughter in Mexico on February 19, 1986. Consequently, the district director denied the LIFE Act application on July 21, 2004.

On appeal, the applicant reaffirms her claim that she continuously resided in the United States for the requisite period. The applicant includes a copy of the statement that she had previously submitted in response to the notice of intent to deny, as well as a new affidavit of residence. However, the applicant failed to disclose that she had been absent from the United States when she gave birth to her daughter in Mexico on February 19, 1986, prior to her response to the notice of intent to deny and had previously provided contradictory testimony by claiming that she was only absent from this country on one occasion during the requisite period when she visited Mexico in 1987. The applicant's statements on appeal fail to sufficiently reconcile her conflicting testimony relating to her absences from this country in the period from 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).

The applicant has seriously impaired the credibility of her claim of residence in the United States for the requisite period by failing to disclose at least one absence from this country and providing conflicting testimony relating to the total number and dates of her absences from the United States. The applicant has failed to establish having resided in continuous unlawful status in the United States from prior to January 1, 1982 through May 4, 1988, as required under section 1104(c)(2)(B) of the LIFE Act. The applicant is, therefore, 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.