



U.S. Citizenship
and Immigration
Services

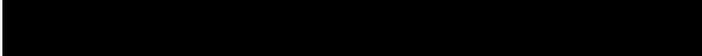
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FILE:  Office: HOUSTON Date: DEC 05 2005

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:



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, Houston, Texas, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The district director concluded that the applicant's testimony during her interview was at variance with the information provided on her application, thereby casting doubt on her claim to have continuously resided in the United States in an unlawful status from before January 1, 1982 through May 4, 1988. As such, the director denied the application.

On appeal, counsel asserts that some of the allegations contained in the Notice of Intent to Deny are erroneous. Regarding the applicant's claim to have informed an immigration officer in 2000 that she had lived in Houston for 14 years, counsel asserts that the applicant meant it "was 14 years from the last time she went to Mexico." Counsel contends that the applicant's former counsel did not inform her [the applicant] of the Notice of Intent to Deny until there were a few days left to respond. Counsel requests an extension of 60 days in which to submit a brief. However, more than a year later, no correspondence has been presented by either counsel or the applicant.

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).

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 CIS 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 director issued a Notice of Intent to Deny dated March 24, 2004, which advised the applicant of inconsistencies between her oral testimony, her sworn statement and the documentation provided with her Form I-687 Application. Specifically,:

1. At the time of her LIFE interview, the applicant indicated that she had a daughter that was born in Mexico on October 4, 1985; however, this departure was not mentioned on her Form I-687 application or at the time of her initial interview on January 14, 2004.
2. The employment letter from Latin Astros Supermarket attested to the applicant's employment from January 1985 to the present (1987); however, during her interview, the applicant asserted that her first job in the United States was cleaning houses for [REDACTED] and Ms [REDACTED] until 1988. Further, the applicant, on her Form I-687 application, only listed employment at Taqueria Mexico commencing November 1988.

3. At the time of her apprehension on September 8, 2000, the applicant informed the immigration officer that she was enroute to Houston where she had been residing for the past 14 years.

The director advised the applicant that based on these statements the applicant's initial entry into the United States would have been in 1986. The applicant was granted 30 days in which to submit a rebuttal. The applicant, however, failed to respond to the notice.

Doubt cast on any aspect of the evidence 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. See *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.

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