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U.S. Citizenship
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Services

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JAN 21 2005

FILE: [REDACTED] Office: LOS ANGELES Date:

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. 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 director concluded that the applicant had not demonstrated that he had continuously resided in the United States in an unlawful status since before January 1, 1982 through May 4, 1988, based on his sworn testimony at the time of his interview. Accordingly, the district director denied the application.

On appeal, the applicant asserts that he misunderstood the question asked by the interviewing officer regarding the date of his first entry into the United States. The applicant claims that he obtained a visitor visa when he departed the United States in 1989. The applicant states that he has been in the United States for over 20 years.

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 Citizenship and Immigration Services 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 record reflects that according to the interviewing officer's notes of April 16, 2003, the applicant stated that his first entry into the United States was September 30, 1989. The applicant informed the interviewing officer that he was working in the Philippines from 1981 through 1989. When questioned why the date of entry into the United States listed on item 15 of his Form I-687 application indicated December 5, 1981, the applicant asserted that someone else prepared the application.

It is noted for the record that the Form I-687 application does not indicate that anyone other than the applicant prepared the application.

The applicant was placed under oath and admitted in a sworn statement that he came to the United States on September 30, 1989 as a tourist. The applicant further admitted:

Since then, been working to support my family in the Phil. Been away for 7 years. My last visit was in 1996 of December & come back to US Jan 4, 1997. Right now I'm working as security officer at Blue Cross of California.

The applicant's sworn testimony, however does not support the interviewing officer's notes or the director's decision as there is no mention of September 30, 1989 being the applicant's "first" entry into the United States. Nevertheless, throughout the application process, the applicant has not provided any evidence to establish that he had continuously resided in the United States since prior to January 1, 1982 through May 4, 1988.

The applicant asserts on appeal that he has been in the United States for over twenty years, but fails to provide any documentation to indicate where he was employed or resided during the period in question. Further, the affidavits from four acquaintances only attested to the applicant's character and friendship. The acquaintances did not provide an address where the applicant purportedly resided throughout the requisite period.

Given the absence of any contemporaneous documentation, along with the applicant's reliance on the four affidavits, it is concluded that he has failed to establish continuous residence in the United States for the required period. Therefore, 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.