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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] Office: HOUSTON, TEXAS

Date: JAN 26 2005

IN RE: Applicant: [REDACTED]

PETITION: 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:
[REDACTED]

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, Houston, Texas, 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 she had continuously resided in the United States in an unlawful status since before January 1, 1982 through May 4, 1988.

On appeal, the applicant states that she is submitting additional proof of her having resided in the United States during the period in question.

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).

Although Citizenship and Immigration Service (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).

In an attempt to establish continuous unlawful residence from November 1981 to May 4, 1988, as claimed, the applicant submitted a Form I-687 Application for Status as a Temporary Resident under Section 245A, indicating that the applicant last entered the United States in 1981, and item 36 indicated that she had not left the U.S. since that time.

Along with her Form I-687, the applicant submitted six separate affidavits from [REDACTED]. The affidavit from [REDACTED] indicated that she employed the applicant as a babysitter from December 1976 to November 1978, which is before the applicant's claimed period of residence in the U.S. The applicant submitted three envelopes mailed from Houston, Texas to Mexico.

Interviewer notes taken during the applicant's Asylum interview, on August 31, 1998, indicated that the applicant stated in sworn testimony on two separate occasions that she entered the U.S. in 1985 to look for a job. The applicant further stated that she began working for Eulalia Roman as a babysitter in 1987. On her Application for Asylum and for Withholding Removal, dated August 13, 1998, the applicant indicated in two separate places that she entered the U. S. in July 1985.

In an interview associated with her application for permanent resident status under section 1104 of the LIFE Act on May 9, 2003, the applicant stated in sworn testimony that she entered the U.S. in June 1981 and that she left the U.S. to go to Mexico for one month during the summer of 1987.

Subsequently, in response to the notice of intent to deny, the applicant submitted two separate affidavits from [REDACTED]. The applicant stated that the affidavit from [REDACTED] contained typographical errors and that the real employment dates for her were in the 1980's. The applicant made no statements regarding her testimony given during her asylum interview.

On appeal, the applicant submitted three separate affidavits from [REDACTED]. The applicant submitted photocopied birth certificates for three daughters born in Texas beginning in 1990, six separate photographs purportedly taken in Houston, Texas during the period in question, three photocopied 1990's earnings slips, a telephone bill, and photocopied 1997 and 1998 Form 1040 U.S. Individual Income Tax Returns. Virtually all of this evidence relates to the period after May 4, 1988. The applicant has not submitted contemporaneous documents relating to the 1981-84 period.

As stated above, the inference to be drawn from the documentation provided shall depend on the *extent* of the documentation, its *credibility* and amenability to verification.

The applicant has submitted affidavits attesting to her residence from 1981 to 1988. However, the credibility of the evidence is questionable given the applicant's own contradictory statements as to when she entered the U.S. The applicant in this case has asserted, under oath, on May 9, 2003, that she entered the U.S. in June 1981 and that she left the U.S. to go to Mexico for one month during the summer of 1987. During her asylum interview, on August 31, 1998, the applicant stated in sworn testimony on two separate occasions that she entered the U.S. in 1985 to look for a job. The applicant further stated that she began working for Eulalia Roman as a babysitter in 1987. On her Form I-589 Application for Asylum and for Withholding Removal, dated August 13, 1998, the applicant indicated in two separate places that she entered the U. S. in July 1985.

Doubt cast on any aspect of the petitioner's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the applicant's claim. *See Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988). It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence. Attempts to explain or reconcile such inconsistencies, will not suffice without competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Id.* at 591-92. At no time during the applicant's applying for benefits under the Act has she addressed or refuted any of her conflicting testimony given under oath to CIS officers. Further, although the applicant addressed the affidavit from Eulalia Roman in response to the notice of intent to deny, claiming that it was a typographical error, it is significant that the applicant has submitted no new documentation from the affiant.

The AAO determines that the documentary evidence and statements made by the applicant contained in the record of proceedings cannot be deemed credible. Therefore, the applicant has failed to meet her burden of proof. Thus, she has failed to establish, by a preponderance of evidence, her 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, as required by section 1104(c)(2)(B)(i) of the LIFE Act. 8 C.F.R. § 245a.11(b). Accordingly, the applicant is ineligible for adjustment to permanent resident status under the LIFE Act.

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