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**U.S. Citizenship
and Immigration
Services**

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FILE:

Office: Houston

Date: **JAN 26 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. The file has 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.

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 failed to prove that he was physically present in the United States before January 1, 1982 and that he resided continuously in this country in an unlawful status from before January 1, 1982 through May 4, 1988. This determination was based upon his sworn statement dated April 17, 1992, indicating that his first entry into the United States was in 1986 or 1987 through Matamoros, Mexico.

On appeal, counsel states that on or about November 19, 2003, the applicant submitted an affidavit in which he clarified the discrepant information that he had entered the United States in 1986 or 1987. Counsel indicates that the applicant also explained that in 1986 or 1987 he was deported and returned a few days later. Counsel argues that the applicant submitted original check stubs and receipts that proved his presence in the United States from 1980 and throughout the decade.

Section 1104(c)(2)(B)(i) of the LIFE Act provides that each applicant for permanent resident status must establish that he or she entered and commenced residing in the United States *prior to January 1, 1982*. On April 17, 1992, the applicant was interviewed by an officer of the Citizenship and Immigration Services or CIS (formerly, the Immigration and Naturalization Service or INS) at the Houston District Office. In his sworn statement, the applicant stated:

My true and correct name is [REDACTED] I was (born on) Dec. 28, 1957 in Reynosa, Mexico. I am not married and I do not have children. My mother is a resident and citizen of Mexico. My father is legal permanent resident thru amnesty. I reside with my father in Houston, Texas. My first entry into the United States was 1986 or 1987 thru Matamoros without inspection. Since 1986 or 1987 I have been outside the U.S. just 2 X's (times) and that was when I was apprehended and deported about 6 yrs. ago but I came back to the U.S. right away. The second time, I went to visit my family in Mexico. I went around 1988 or 1989. I returned to the U.S. within one week. The reason I did not apply for CSS/LULAC was because I was told since I had left to visit my mother I would not qualify. I do not recall who assisted me in filing for my initial interview. I think her last name is Longoria and she was a notary. I paid her \$220.00 for her services. I have not been threatened or promised any benefits from this officer to give this statement. Everything I have told the officer I told Ms. Longoria. I told her my first entry into the U.S. was 1986 or 1987, my exits outside of the United States, and personal data she needed to fill out my application and to organize my letters of affidavit. The notary filled out all the information for me. This is what I submitted to Immigration. This statement I have given voluntarily and everything I have told this officer is the truth.

In his November 18, 2003 affidavit that was noted by counsel, the applicant retracts the statement that he provided at his interview on April 17, 1992. It is determined that between the two conflicting documents, the best evidence is the applicant's April 17, 1992 statement before the CIS officer provided by him under oath. Counsel

argues that the applicant submitted original check stubs and receipts that proved his presence in the United States from 1980 and throughout the decade. However, the original check stubs specified may have been issued to the applicant's father whose name is also [REDACTED] or another person named [REDACTED]. Also, some of the submitted receipts carry addresses that are other than where the applicant claimed to reside in the United States during the qualifying period. It is determined that the applicant has not overcome the director's objections on appeal. Given the applicant's inability to meet the statutory requirement of residence in the United States since before January 1, 1982 through May 4, 1988, the applicant is ineligible for permanent residence under section 1104 of the LIFE Act.

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