



U.S. Citizenship  
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LA

JAN 27 2005

FILE:



Office: Houston

Date:

IN RE:

Applicant:



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: 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.

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 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 first entered the United States in April of 1982, and admitted this fact both verbally and in a signed sworn statement to the Immigration and Naturalization Service, or the Service (now Citizenship and Immigration Services, or CIS) officer who conducted her interview on October 29, 2002. The applicant indicates that any supporting documentation contained in the record that purports to reflect any earlier entry into this country on her behalf prior to April 1982, had been submitted without her knowledge by her former attorney.

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 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 record shows that the applicant filed her Form I-485 LIFE Act application on March 6, 2002. The record further shows that the applicant subsequently appeared for the requisite interview relating to her LIFE Act application at the Houston, Texas District Office on October 29, 2002. The interviewing officer's notes reflect that during this interview, the applicant acknowledged under oath that she first entered the United States in April of 1982. In addition, the record shows that the applicant executed a signed sworn statement in her own hand, in which she admitted "I [applicant's name] came to the United States in the year 1982 April."

In addition, the record contains a Form I-130, Petition for Alien Relative, which had been prepared by the applicant on her daughter's behalf. On the Form I-130, the applicant listed her date of arrival in the United States as April 11, 1982.

Based upon the applicant's admission that she had not entered the United States until April 1982, the district director concluded that 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. Therefore, the district director determined that the applicant was ineligible for permanent residence under the LIFE Act and denied the application.

On appeal, the applicant reiterates that she first entered the United States in April 1982. The applicant indicates that any supporting documentation contained in the record that purports to reflect any earlier entry into this country on her behalf prior to April 1982, had been submitted without her knowledge by her former attorney. The applicant indicates that she wishes to remain in this country to support her family.

The statements on appeal have been considered. The frankness of the applicant's declarations is both acknowledged and appreciated. Nevertheless, there is no waiver available, even for humanitarian reasons, of the requirements stated above.

Given the applicant's own admission that she did not enter the United States until April of 1982, it is concluded that she has failed to establish continuous residence in this country from prior to January 1, 1982 through May 4, 1988, as required.

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