

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



FILE:



Office: LOS ANGELES

Date: JUL 19 2005

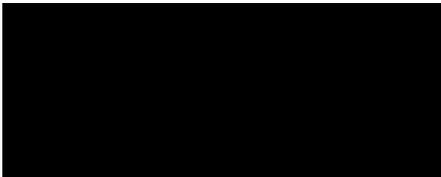
IN RE:

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, Los Angeles, California, 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 he had continuously resided in the United States in an unlawful status since before January 1, 1982 through May 4, 1988.

On appeal, counsel asserts that the applicant provided explanations, which clarified the inconsistencies between his application and oral testimony.

Section 1104(c)(2)(B) of the LIFE Act states:

(i) In General – The alien must establish that the alien entered the United States before January 1, 1982, and that he or she has resided continuously in the United States in an unlawful status since such date and through May 4, 1988. In determining whether an alien maintained continuous unlawful residence in the United States for purposes of this subparagraph, the regulations prescribed by the Attorney General under section 245A(g) of the Immigration and Nationality Act (INA) that were most recently in effect before the date of the enactment of this Act shall apply.

The applicant has submitted sufficient evidence to establish he resided in an unlawful status in the United States since before January 1, 1982 through November 30, 1987. *See Matter of E-- M--*, 20 I. & N. Dec. 77 (Comm. 1989). However, at issue in these proceedings is whether the applicant continuously resided *in an unlawful status* for the remaining period.

The record contains a copy of the applicant's Gambian passport, which reveals that on October 26, 1987, the applicant was issued a B-1 non-immigrant visa valid until January 25, 1988. The passport also reveals that the applicant entered the United States as a non-immigrant visitor in December 1987.

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. *See* 8 C.F.R. § 245a.11(b). Because the applicant was in a lawful nonimmigrant status from December 1987 through January 25, 1988 he has failed to meet the regulatory requirement.

Accordingly, the applicant has failed to establish that he resided in continuous *unlawful status* in the United States from prior to January 1, 1982 through May 4, 1988, as required under section 1104(c)(2)(B) of the LIFE Act. 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.