

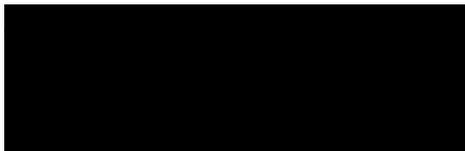
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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
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U.S. Citizenship
and Immigration
Services

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FILE:



Office: Indianapolis

Date:

JUL 26 2005

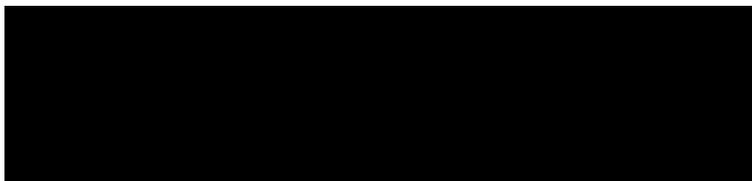
IN RE:

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:



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, Chicago, Illinois, and is before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The district director determined that the applicant had not established that she resided in the United States in a continuous unlawful status from before January 1, 1982 through May 4, 1988, as required by section 1104(c)(2)(B) of the LIFE Act.

On appeal, counsel states that the applicant has submitted sufficient evidence to demonstrate that she continuously resided in this country for the requisite period. Counsel contends that the applicant has not submitted any additional documentation in support of her claim of residence because she was living with a partner that provided for her and paid all bills, as an illegal alien she did not wish to generate a paper trail, and the significant passage of time.

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 applicant is a class member in a legalization class-action lawsuit and as such, was permitted to previously file a Form I-687, Application for Temporary Resident Status Pursuant to Section 245A of the Immigration and Nationality Act (INA) on August 18, 1990. The record shows that the applicant subsequently filed her Form I-485 LIFE Act application on April 29, 2002. At part #3B of the Form I-485 where applicants were asked to provide information regarding their immediate family, the applicant specified that her son had been born in Gabon on February 21, 1984. The applicant offered no explanation as to how she gave birth to her son in Gabon in 1984 when she claimed that she continuously resided in the United States from prior to January 1, 1982 to May 4, 1988.

In support of her claim of continuous residence in this country for the requisite period, the applicant submitted a single affidavit of residence signed by [REDACTED]. The affiant stated that the applicant had resided with her in the United States at her address "(B)(6)" since January 1982. As such, this affidavit cannot be considered as sufficient evidence to demonstrate that the applicant resided in the United States in a continuous unlawful status from before January 1, 1982 through May 4, 1988.

A review of the record reveals that the applicant has not submitted any evidence to demonstrate that she entered the United States before January 1, 1982 and continuously resided in this country as required by 8 C.F.R. § 245a.11(b). The sole affidavit submitted by the applicant in support of her claim of residence attests to her residence in this country beginning in and subsequent to January 1982. In addition, the fact that

the applicant gave birth to a son in Gabon on February 21, 1984, further impairs the credibility of her claim to have continuously resided in the United States from prior to January 1, 1982 to May 4, 1988.

On appeal, counsel asserts that the applicant has not submitted any additional documentation in support of her claim of residence because she was living with a partner that provided for her and paid all bills, as an illegal alien she did not wish to generate a paper trail, and the significant passage of time. While counsel's contention may be sufficient to explain why the applicant was unable to obtain contemporaneous documents, it cannot be considered as a reasonable explanation as to why she did not obtain further affidavits from acquaintances, friends, or family to corroborate her claim of residence in the United States for the period in question.

Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I. & N. Dec. 582 (BIA 1988).

The applicant has failed to establish having 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. The applicant is, therefore, 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.