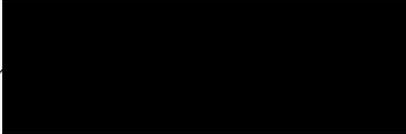


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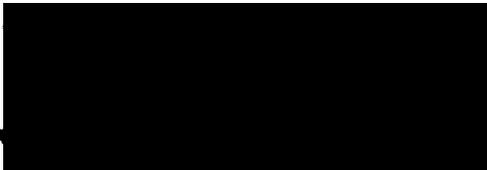
Applicant:



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, San Francisco, 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 although the applicant acknowledges his lawful entry into the United States on July 2, 1981, "he has no record...that he was authorized to stay until January 1, 1982." Counsel submits additional documents in an attempt to establish the applicant's continuously residence and presence in the United States.

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.

(ii) Nonimmigrants - In the case of an alien who entered the United States as a nonimmigrant before January 1, 1982, such alien must establish that the period of authorized stay as a nonimmigrant expired before such date through the passage of time or that the alien's unlawful status was known to the Government as of such date.

The word "Government" means the United States Government. An alien who claims his unlawful status was known to the Government as of January 1, 1982, must establish that prior to January 1, 1982, documents existed in one or more government agencies so, when such documentation is taken as a whole, it would warrant a finding that the alien's status in the United States was unlawful. *Matter of P-*, 19 I. & N. 823 (Comm. 1988).

The applicant has submitted sufficient evidence to establish he resided in the United States since before January 1, 1982 through May 4, 1988. *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 requisite period.

The record contains a copy of the applicant's Mexican passport which reveals that on July 1, 1981, the applicant was issued a B-2 multiple entry non-immigrant visa. The record reflects that the applicant lawfully entered the United States on July 2, 1981, July 6, 1982, July 6, 1983, July 7, 1985, and June 5, 1986.

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). The record indicates that the applicant entered the United States with a visitor's visa on several occasions, including July 2, 1981. Authorized stay with a visitor's visa is generally for 6 months. In the applicant's case, that would extend to January 1, 1982. Counsel does not provide any evidence indicating that the applicant had a shorter period of time or that he violated his lawful status as a B-2

non-immigrant visitor in any other manner, and such unlawful status was known to the Government as of January 1, 1982. It is determined that the applicant was in a lawful nonimmigrant status prior to January 1, 1982, and therefore he cannot meet this criterion.

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.