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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services



L2

FILE:



Office: Houston

Date: MAR 07 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: Self-represented

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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.

In his Notice of Intent to Deny (NOID) dated October 21, 2003, the director noted that at her interview on March 11, 2003, the applicant stated that she first entered the United States illegally on January 30, 1981 alone at Brownsville, Texas, and that she resided in Texas until she made a departure from the United States in 1987 for two weeks to see her family in Mexico. Additionally, the applicant stated that her next departure was in 1989, at which time she went to Mexico for three weeks to see her sick mother and other members of her family.

The director also noted that at the same interview, the applicant stated under oath that she had two daughters, [REDACTED] a born in Mexico in 1983 and [REDACTED] born in Mexico in 1987. The director emphasized that the children's birth certificates show that both children were born to the applicant and that the applicant and the applicant's father both appeared to register her children's births in Mexico. The director continued that when a officer of the Citizenship and Immigration Services or CIS (formerly, the Immigration and Naturalization Service or INS) interviewed the applicant on March 12, 1992, the applicant stated under oath and in a sworn statement that she had no children. The director concluded that the applicant had failed to tell the truth under oath. The director found that due to the inconsistencies and contradictions in the applicant's testimony, sworn statements and the documents that she had submitted, that she had failed to establish that she first entered the United States before January 1, 1982 and had continuously resided in the United States in an unlawful status since before January 1, 1982 through May 4, 1988.

In response to the NOID, the applicant stated, in part, that:

Please take note of the explanation due to my time of residing in the U.S.A., from 1981 until the current time. I was not in my country to register the birth certificates of my adopted children, my sister was present for the signatures. Please call the numbers of the courthouse on the birth certificates and they will verify that in my country you do not have to be present to have your name listed on the adoption papers for children you will adopt, different in my country, than in the United States. The receipts enclosed for me with [REDACTED] was bought during my stay in the United States and I did not know that it meant that his name was the creditation of monies paid, when I paid the money for the equipment. So, I am remorse over sending in the those receipts. It is true that I obtained a B2 visa on June 2, 1989 in Mexico City Mexico, and used it to make a legal entry in the United States on June 12, 1989. But I also, entered the USA in 1981, and I was not present in Mexico during this time to be given or registered birth certificates for my adopted children. Again, you do not have to be present. Please call Te [REDACTED] my sister signed by name, for me. I came into the USA in 1/30/1981, one year before, January 1, 1982, and resided continuously in the United States in an unlawful status since that date through May 4, 1988. I returned to my country in May 1989 and I obtained my Mexican Passport, in Chauhtemoc, Mexico. So I could return to the United States, which was on June 12, 1989. I honestly entered for the first time in the United States on 1/30/1981, and resided until May 1989.

On appeal, the applicant states:

Evidence shows that I was not in Mexico to sign for my adopted children, and my sister gave birth to them. When question by INS Officer about whether or not I have children is clearly a misunderstanding of interpretation. When registering children in Mexico no signature is required, only the stamp of the country. A letter is enclosed by the parents stating that these children are theirs biologically. Also, adopted parents do not have to be present in order for their name to be placed on the birth certificate. Stating under oath that I do not have any children was not an intent to lie, it was that I have never given birth to any children in my life, just adopted these children by my name being placed on their birth certificate by the biological parent, my present was absent. I was in the United States at the time and there is evidence to prove this enclosed. Please, there is a misunderstanding, I would not lie if I did go back to Mexico during this time and signed those birth certificates registration, but I did not. Going before INS and being questioned is a very devastating time, I was scared,, nervous, down right in fear, and I still afraid. But this is the truth, and please forgive me for the mistake in communicating. Thank you for your time and consideration.

The applicant submits a statement from C. [REDACTED] Officer 01 of the Civil Registry in the [REDACTED] Mexico in which he certifies:

That Mr. And Mrs. [REDACTED] give in adoption to the minors: [REDACTED] and [REDACTED] due to the they had several children and their income is to low to support all the family members. At the moment of this decision, these children already were under their aunt, [REDACTED] support and custody.

The present is issued for the legal uses by the interested person in the Civil Registry Office, at Huitzuc de los Figueroa, Guerrero, on the seventeenth day of the month of November, two thousand and three.

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). An applicant must also establish continuous physical presence from November 6, 1986 through May 4, 1988. *See* 8 C.F.R. § 245a.16.

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.

In this case, the record contains two birth certificates submitted by the applicant. The first shows that she gave birth to [REDACTED] on February 18, 1982. The second shows that she gave birth to [REDACTED] Roman on November 1, 1983. Both girls were born in [REDACTED]

Mexico. The applicant claims that her sister gave birth to the two children and that "When registering children in Mexico no signature is required, only the stamp of the country" and that "... adopted parents do not have to be present in order for their name to be placed on the birth certificate." However, the applicant does not submit evidence to establish that such an unusual procedure is permitted in Mexico. Therefore, notwithstanding the applicant's assertions, the record substantiates that the applicant was not in the United States when her two children were born in 1982 and 1983.

The applicant in this case has not adequately addressed the director's finding that in 1982 and in 1983 when her daughters were born in Mexico that she could not have been living in the United States as claimed. The applicant has, therefore, failed to establish that she resided in continuous unlawful status in the United States from before January 1, 1982 through May 4, 1988, as required under section 1104(c)(2)(B) of the LIFE Act. Given this, she is ineligible for permanent resident status under section 1104 of the LIFE Act.

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 her Form G-325A biographic information dated April 24, 2002, the applicant states that she resided abroad until 1987 when she entered the United States from Mexico to reside in this country. Given the applicant's inability to meet the statutory requirement of residence in the United States since before January 1, 1982, the applicant is ineligible for permanent residence under section 1104 of the LIFE Act for this additional reason.

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