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

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FILE:



Office: San Francisco

Date:

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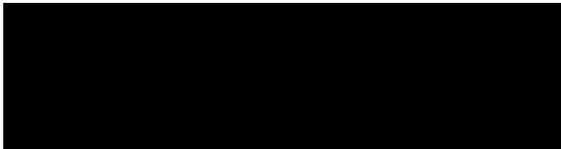
IN RE:

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.

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, San Francisco, and is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The district director concluded that the applicant had not established that he 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, or that he was continuously physically present in the United States from November 6, 1986 through May 4, 1988, as required by section 1104(c)(2)(C) of the LIFE Act.

On appeal, counsel asserts that the affidavits provided by the applicant should serve to establish his continuous residence in the U.S. during the period in question. Counsel further asserts that, unless the director deems these affidavits to be deficient or fraudulent, there is no need for the applicant to corroborate such affidavits with other forms of supporting evidence.

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 Citizenship and Immigration Service (CIS) 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).

In an attempt to establish continuous unlawful residence since prior to January 1, 1982, the applicant submits the following:

- A personal affidavit from the applicant, in which he asserts that he first entered the U.S. on November 11, 1981;
- An affidavit from [REDACTED] who attests to having known the applicant since 1982;
- An affidavit from [REDACTED] attesting to having known the applicant since 1985;
- An affidavit from [REDACTED] who attests to having known the applicant since 1984;
- A letter from [REDACTED] Secretary of the Guru Nanak Sikh Temple, who states that the applicant is a regular member of that congregation; and

- An affidavit from [REDACTED] a resident of Canada, who attests to the applicant having stayed with him from May 10, 1987 to June 15, 1987 before returning to the U.S.

In attempting to provide evidence to support his claim to continuous residence in the U.S., the applicant has provided no contemporaneous documentation to establish presence in the U.S. from the time he claimed to have commenced residing in the U.S. through May 4, 1988. In light of the fact that the applicant claims to have continuously resided in the U.S. since November 11, 1981, this inability to produce contemporaneous documentation of residence raises serious questions regarding the credibility of the claim.

As stated above, the inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. The applicant in this case has submitted five (5) third-party affidavits in support of his claim to continuous residence. However, none of these affidavits indicates the applicant resided in the U.S. *prior* to January 1, 1982. Although the applicant was specifically requested by CIS to submit such evidence of residence prior to January 1, 1982, he has not done so. The letter from the secretary of the Guru Nanak Temple attests to the applicant being a regular member of the congregation, but fails to provide a date as to exactly when the applicant's membership commenced. Moreover, few of the affidavits provide any details regarding the basis for the affiants acquaintanceship with the applicant. In addition, with the exception of the Guru Nanak Temple letter, none of the affidavits submitted have included the affiants' phone numbers, thereby failing to provide a convenient means by which those attesting to the applicant's residence might be contacted for purposes of further verification.

Given the absence of contemporaneous documentation pertaining to this applicant, along with the absence of any documentation indicating the applicant's residence in the U.S. prior to January 1, 1982,, and the applicant's reliance on affidavits which do not meet basic standards of probative value, it is concluded that he has failed to meet his burden of proof of establishing continuous unlawful residence in the United States from prior to January 1, 1982 through May 4, 1988, as required. Accordingly, the applicant is ineligible for permanent resident status under section 1104(c)(2)(B) of the LIFE Act.

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