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U.S. Citizenship
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FILE:



MSC 02 010 61152

Office: NEW YORK Date:

MAR 02 2007

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. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

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

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the District Director, New York, New York, 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, the applicant asserts, "I was ordered to stay no more than two weeks to play chess in Washington DC." The applicant claims that he violated his status by remaining in the United States after December 25, 1981.

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).

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 (the Act) 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 record contains a copy of the applicant's Haitian passport which reveals that on December 3, 1981, the applicant was issued a B-2 non-immigrant visa valid until March 3, 1982. The record reflects that the applicant lawfully entered the United States on December 11, 1981. The passport contains a written notation indicating that the applicant was in the United States for two weeks to play a checker competition in Washington, D.C.

The applicant's assertion that he was only given two weeks to stay in the United States is unfounded. The passport clearly indicates that his visa was valid until March 3, 1982 and the *purpose* for his visit was to compete in a checker competition for two weeks in Washington D.C. Furthermore, the applicant's claim that he was only given two weeks to stay in the United States is contradicted by his own statement submitted on appeal for a separate application in March 1988. Specifically, the record reflects that on October 5, 1987, the applicant filed a Form I-687, Application for Status as a Temporary Resident, which was denied by the

Director, Vermont Service Center on February 11, 1988. On appeal to the denial of this application, the applicant indicated, "[e]ven when my authorized stay expired in January 1982." It is noted that Legalization Appeals Unit dismissed the appeal on June 15, 1988.

The applicant has not provided any credible evidence to refute the fact that his visa was valid until March 3, 1982. Simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). It is determined that the applicant was in a lawful nonimmigrant status prior to January 1, 1982 and, therefore, 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. Accordingly, 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.