



U.S. Citizenship
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Services

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[REDACTED]

FILE: [REDACTED]
MSC 02 248 66159

Office: DALLAS

Date: MAR 07 2007

IN RE: Applicant:

[REDACTED]

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:

[REDACTED]

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, 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, Dallas, Texas, and is now before the Administrative Appeals Office (AAO) on appeal. The case will be remanded for further action and consideration.

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 from before January 1, 1982 through May 4, 1988.

It is noted that the director, in denying the application, did not address the evidence submitted by the applicant and did not set forth the specific reasons for the denial pursuant to 8 C.F.R. § 103.3(a)(1)(i). The director noted that the applicant had not submitted additional information as requested by a request for evidence issued on August 2, 2003.

On appeal, counsel asserts that the applicant has established by a preponderance of the evidence that he resided continuously in the United States from prior to January 1, 1982 through May 4, 1988. Counsel further states that, although the applicant did not submit evidence in response to the request for evidence, the applicant, through counsel, asked that his application be adjudicated on the evidence already submitted. Counsel submits a brief and a statement from the applicant in support of the appeal.

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).

The record reflects that the director questioned the authenticity of the applicant's employment letters, and in an annotation to the record, determined at least one of them to be fraudulent. However, the applicant was not notified of this adverse information either in the Notice of Intent to Deny (NOID) or in the Notice of Decision (NOD).

The regulation at 8 C.F.R. § 103.2(b)(16) provides in pertinent part:

(i) *Derogatory information unknown to petitioner or applicant.* If the decision will be adverse to the applicant or petitioner and is based on derogatory information considered by the Service and of which the applicant or petitioner is unaware, he/she shall be advised of this fact and offered an opportunity to rebut the information and present information in his/her own behalf before the decision is rendered.

The record does not reflect that the applicant was notified of the derogatory information regarding his employment verification letters. Accordingly, the case is remanded for the issuance of a new NOID in which the applicant shall be notified of the adverse information and given an opportunity to submit evidence in rebuttal, and for the entry of a new decision in accordance with the foregoing. If the new decision is adverse, it shall be certified to this office.

ORDER: This matter is remanded for further action and consideration pursuant to the above.