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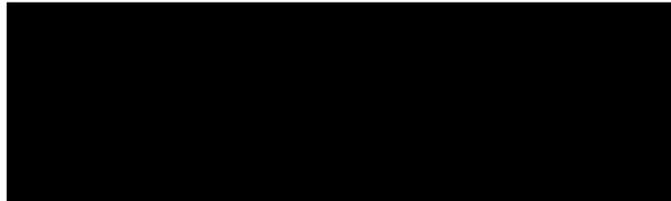
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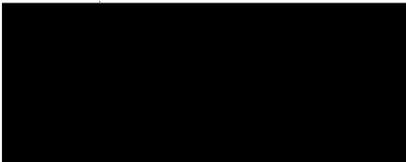
OCT 02 2007

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:



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

On appeal, counsel asserts that the applicant's testimony at the time of his interview is prejudicial, as the entire episode was marked by abusive and prejudicial conduct on the part of the interviewing officer. Counsel contends that the applicant was separated from him and asked to sign documents which were not explained to him. Counsel asserted that a brief and/or evidence would be submitted to the AAO within 30 days. However, more than two years later, no additional correspondence has been presented by counsel.

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).

Although the 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. See 8 C.F.R. § 245a.2(d)(3)(vi)(L).

In an attempt to establish continuous unlawful residence since before January 1, 1982 through May 4, 1988, the applicant only provided a self-serving affidavit indicating he entered the United States in 1980 and that he departed in 1984 and 1989 for one month to his native country, Egypt.

According to the interviewing officer's notes of September 11, 2003, the applicant asserted that he departed the United States in March 1984 and returned April 1984. When asked what documents the applicant had to establish his entry prior to January 1, 1982 and his continuous unlawful residence and physical presence during the requisite period, the applicant replied that he did not have any documentation to provide.

The director issued a Notice of Intent to Deny dated October 21, 2003, which advised the applicant of his failure to submit documentation to establish his continuous unlawful residence since before January 1, 1982 through May 4, 1988. The applicant was provided 30 days in which to submit evidence. The record, however, does not contain a response to the notice. Accordingly, on December 3, 2004, the director denied the application.

On appeal, counsel asserts, in part:

There is a strong inference that the USCIS agents were predisposed to disbelieve [the applicant] because he is from the Arabic-Speaking, Muslim part of the work, he works as an airline

mechanic, and his interview was held on the first anniversary of 9/11. Based on this unfortunate confluence of circumstances, the review of [the applicant's] application was unfairly prejudiced, denying him a fair "hearing" before the tribunal, contrary to principles of due process."

This assertion amounts to speculation on behalf of counsel and is not supported by any credible evidence. *Matter of Laureano*, 19 I&N Dec. 1, 3 (BIA 1983); *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

The applicant has the burden of proof of proving by a preponderance of the evidence that he resided in the United States during the requisite period. 8 C.F.R. § 245a.13(e). To meet his burden of proof, the applicant must provide evidence of eligibility apart from his own testimony. 8 C.F.R. § 245a.13(f). The applicant claimed to have worked and resided in the United States since 1980, but provides no evidence to support his claim.

Accordingly, the applicant has failed to establish that he resided in a 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.