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U.S. Citizenship
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Services

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FILE:

MSC-01-307-60500

Office: NEW YORK

Date:

OCT 11 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. The file has been returned to the National Benefits Center. 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 "R. 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 Director of the New York District Office and that decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

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). The regulation at 8 C.F.R. § 245a.12(e) states that applicants for adjustment of status to that of a Legal Permanent Resident bear the burden of establishing that they have resided continuously in the United States for the duration of the requisite period by a preponderance of the evidence.

The director stated in her Notice of Intent to Deny (NOID) that the applicant failed to establish that he had maintained continuous residence in the United States for the duration of the requisite period. Specifically, she stated that though the applicant submitted affidavits in support of his claim of having maintained continuous residence in the United States for the duration of the requisite period, doubt was cast on the credibility of these affidavits. The director noted that though the applicant submitted an affidavit stating that he worked for City Ready Mix Corporation from November of 1981 to February of 1984. However, when her office contacted this company, its owner stated that the company did not exist until 1988. Further casting doubt on the applicant's claim of having maintained continuous residence in the United States for the duration of the requisite period is a Form G-325A submitted to the Service on December 20, 1993 with the applicant's Form I-589 Request for Asylum in the United States. On this Form G-325A, the applicant indicated that he resided continuously in Poland from his date of birth until his date of departure. The record shows that during the applicant's asylum interview, he stated that his date of departure was on March 26, 1988. The director granted the applicant thirty (30) days within which to submit additional evidence in support of his application. As the applicant failed to submit new evidence, the director found the applicant did not overcome her reasons for denial and denied his application.

The regulation at 8 C.F.R. § 245a.19(a) states in pertinent part that all applicants filing for adjustment of status with the Service must be interviewed except when the interview is waived when it is impractical because of the health or advanced age of the applicant. It is noted here that the applicant appeared for his interview, but was excused from submitting to the interview after submitting evidence that he suffered from dementia. The record contains a Form N-648 on which [REDACTED] as stated that because of the applicant's condition he is unable to submit to an interview.

The AAO further notes that the record indicates that the applicant was arrested on June 8, 2001 and charged with resisting arrest and disorderly conduct. However, the record shows that the charges against the applicant were dismissed. It is noted that this record of arrest and the subsequent dismissal of charges associated with that arrest alone is not cause to determine that the

applicant is ineligible to adjust to Permanent Resident Status under 8 C.F.R. § 245a.18(a) as this arrest does not constitute a conviction of a felony or three or more misdemeanors committed in the United States.

On appeal, the applicant states that the director made her decision without the applicant having submitted to an interview. He states that he cannot submit additional evidence regarding his residence because most of his previous employers are no longer in business and that if he were to have been interviewed, he could have provided explanations for the discrepancies noted by the director in her decision.

As stated in 8 C.F.R. § 103.3(a)(3)(iv), any appeal which is filed that fails to state the reason for appeal, or is patently frivolous, will be summarily dismissed.

A review of the decision reveals the director accurately set forth a legitimate basis for denial of the application. On appeal, the applicant has not presented additional evidence. Nor has he addressed the grounds stated for denial. The appeal must therefore be summarily dismissed.

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