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U.S. Citizenship
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FILE:

MSC-02-156-61259

Office: NEWARK, NJ

Date: OCT 12 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. 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.

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 Newark, New Jersey District Office and 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.15(c)(1) further states that an applicant shall be regarded as having continuously resided in the United States if no single absence from the United States has exceeded forty-five (45) days, and the aggregate of all absences has not exceeded one hundred and eighty (180) days during the requisite period unless the applicant can establish that his or her return was untimely due to emergent reasons. The regulation at 8 C.F.R. § 245a.12(e) state that applicants for adjustment of status to that of a Legal Permanent Resident under this section 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 decision that the applicant did not respond to a request for evidence in the form of a Form I-72 issued by her office at the time of his interview on January 23, 2006. She went on to say that the applicant did not meet his burden of proving with a preponderance of the evidence that he maintained continuous residence in the United States for the duration of the requisite period with no single absences exceeding forty-five (45) days. In saying this the director noted that at the time of his interview, the applicant stated that he last left the United States in January of 1988 and his passport shows that his last entry into the United States was on March 10, 1989, when the applicant entered the United States with a valid B1/B2 visa issued to him in Lima Peru on September 16, 1988. Therefore, the director indicated that without further evidence to support the applicant's claim, it appeared that he had been absent from the United States for a period exceeding forty-five (45) days during the requisite period. Therefore, she determined that he had not met his burden of establishing that he continuously resided in the United States for the duration of the requisite period and denied the application.

On appeal, the applicant's attorney states on the applicant's Form I-290B that the applicant previously submitted an abundance of evidence that established that he was eligible to adjust to lawful permanent resident status under the LIFE Act.

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.