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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



LR

FILE:



SRC 01 199 56498

Office: HOUSTON

Date:

APR 25 2008

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. If your appeal was sustained, or if your case 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 "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, Houston, 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. Specifically, the director determined that because the applicant first entered the United States in January 1994, he was statutorily ineligible for the benefit sought.

On appeal, the applicant requests reconsideration of his case. No new evidence was submitted in support of the appeal.

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 Citizenship and Immigration Services (CIS) 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. 8 C.F.R. § 245a.2(d)(3)(vi)(L).

The issue on appeal is whether the applicant has submitted sufficient credible evidence to meet her burden of establishing continuous unlawful residence in the United States from before January 1, 1982 through 1984.

During his November 12, 2003 interview, the applicant claimed, under oath, that he first entered the United States in January of 1994. Additionally, the record contains an Application for Employment Authorization dated May 28, 2003 which states that his last entry into the United States was on January 6, 1994. No additional documentation in support of his continuous unlawful residence during the relevant period was submitted. Consequently, on March 16, 2004, CIS issued a Notice of Intent to Deny the application. The district director noted that the record did not contain credible and verifiable evidence that the applicant entered the United States prior to January 1, 1982 as required. The director afforded the applicant thirty days in which to submit additional evidence in support of his eligibility.

In response, the applicant submitted a letter and copies of documents pertaining to an unrelated appeal filed by another applicant. The applicant failed to address his ineligibility by reason of entry after January 1, 1982, and provided no evidence to rebut or dispute the director's findings. The director denied the application on July 1, 2004.

On appeal, the applicant re-submits the unrelated documents from another applicant's case, and makes no effort nor does he submit evidence to rebut the director's finding that he is statutorily ineligible because he did not enter the country until January 1994.

Upon review, the AAO concurs with the director's decision.

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). In this matter, the applicant claimed, under oath, that he first entered the United States in January 1994. Despite being afforded the opportunity to rebut the director's finding, the applicant made no claim, nor did he provide any evidence in support of a claim that he entered the United States prior to January 1, 1982 as required by the regulations. On appeal, the applicant does not submit any new documentation nor does he contend that his date of first entry is erroneous.

It is concluded that the applicant has failed to establish that he continuously resided in the United States in an unlawful status since before January 1, 1982 through May 4, 1988. 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.