



U.S. Citizenship
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[REDACTED]

FILE: [REDACTED] Office: BOSTON (PROVIDENCE) Date: JUL 02 2008
MSC 02 044 62986

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. 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
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, Boston (Providence) Rhode Island, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The district director denied the application because the applicant failed to demonstrate that he resided in a continuous unlawful status in the United States beginning prior to January 1, 1982 through May 4, 1988.

Section 1104(c)(2)(B) of the LIFE Act states:

(i) In General – The alien must establish that the alien entered the United States before January 1, 1982, and that he or she has resided continuously in the United States in an unlawful status since such date and through May 4, 1988. In determining whether an alien maintained continuous unlawful residence in the United States for purposes of this subparagraph, the regulations prescribed by the Attorney General under section 245A(g) of the Immigration and Nationality Act (INA) that were most recently in effect before the date of the enactment of this Act shall apply.

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 applicant made a claim to class membership in a legalization class-action lawsuit and as such, was permitted to submit a Form I-687, Application for Temporary Resident Status Pursuant to Section 245A of the Immigration and Nationality Act (Act), on September 28, 1989, and again on or about July 26, 1990 for the purpose of establishing class membership.¹ Subsequently, the applicant timely filed a Form I-485, Application to Register Permanent Resident or Adjust Status, on November 13, 2001.

In a March 30, 2006 Notice of Intent to Deny (NOID) the application, the director detailed the deficiencies of the record. The director observed that during a March 23, 2006 interview under oath, the applicant stated that he had first entered the United States in 1978; the director noted that this testimony conflicted with the two Forms I-687 submitted which showed that the applicant had first entered the United States in November 1981. In addition, the Form I-687 submitted September 28, 1989 indicated the only time the applicant left the United States during the relevant time period was in May 1987 for a stay lasting until June 17, 1987. The Form I-687 submitted on or

¹ When the applicant submitted the Forms I-687 in 1989 and 1990, two class action lawsuits were pending: (*Catholic Social Service, Inc. (CSS) v. Thornburgh*, No. CIV- S-86-1343-LKK (E.D. Cal. Filed November 12, 1986) and *League of United Latin American Citizens (LULAC) v. INS*, Cv. No. 87-04757 WDK (JRx) (C.D. Cal. Filed July 22, 1987). Pending final resolution of the cases, individuals who thought they qualified as class members could submit an application for class membership along with a "skeletal" Form I-687; if approved for class membership at that time, they were issued employment authorization.

about July 26, 1990 indicated the only time the applicant left the United States during the relevant time period was in May 1987 for a one-month period. The director also observed that the applicant declared in his interview that he was married in Senegal in 1985 and had three children born in Senegal on May 5, 1986, on January 2, 1994, and on July 28, 1998, thus the applicant must have been in Senegal in 1985. The director further apprised the applicant that a review of the documents submitted in support of his applications revealed that the documents were counterfeit.

In an April 4, 2006 response, prior counsel for the applicant submitted photocopies of receipts for rent from a form receipt book that are dated in 1981, 1982, and 1983. The November 20, 1981 receipt shows that it is receipt number 45; the September 15, 1982 receipt shows that it is receipt number 15; and the March 19, 1983 receipt shows it is receipt number 63. The applicant's address on the receipts conflicts with the information provided by the applicant on the Forms I-687 previously submitted and are not in logical numerical order. Similarly, a receipt dated January 11, 1984 does not identify who issued the receipt or what the receipt is for; thus is not sufficient to establish the applicant's continuous unlawful residence in the United States for the relevant time period. Likewise, a receipt dated September 3, 1987 does not indicate it was issued to the applicant, but to another individual and is issued by a hotel. These documents are not probative as they lack identifying substantive evidence of the applicant's residence in the United States as well as provide information that is inconsistent with the other information in the file.

In a July 13, 2006 decision, the director denied the I-485 application,² pointing out the above deficiencies in the record, as well as finding that the applicant had not addressed the inconsistency in the record regarding his marriage in Senegal in 1985 and his child's birth in May 1986, if the applicant was in fact residing in the United States in 1985. The director further noted that the applicant's passport had been issued in March 1987 in Dakar, Senegal, again during a time period the applicant claimed to live in the United States. The director concluded that the applicant had not submitted probative credible evidence sufficient to establish the applicant's residence in the United States during the relevant time period.

On appeal, the applicant asserts that the decision of the director is in error and that documentation submitted in April 2006 supported his claim of physical presence in the United States prior to January 1, 1982. The applicant noted that he had filled out the applications himself and that the legalization applications may have contained errors due to his poor understanding of English. The applicant also pointed out that although he had not listed his children on the applications submitted, he had provided copies of birth certificates at his interview.

As stated at 8 C.F.R. § 103.3(a)(1)(v): "[a]n officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal."

A review of the decision reveals that the director accurately set forth a legitimate basis for denial of the application. On appeal, the applicant has not presented additional evidence addressing the basis for denial.

² The director also denied the Forms I-687 in a September 20, 2006 decision, after issuing a NOID on July 13, 2006. The AAO has determined that the director erroneously adjudicated the two Forms I-687 as these applications were not timely filed. Thus, the denial of the Forms I-687 is not subject to appeal.

The applicant's assertions on the Form I-290B do not identify any legal or factual error and do not address the deficiencies and inconsistencies in the record as set forth as part of the director's decision. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. at 591.

As the record before the AAO does not contain evidence or argument identifying an erroneous conclusion of law or statement of fact, the appeal will be summarily dismissed.

Based on the above, the applicant has failed to establish entry into the United States prior to January 1, 1982, and continuous unlawful residence through May 4, 1988, as required under Section 1104(c)(2)(B) of the LIFE Act. Given this, he is ineligible for permanent resident status under Section 1104 of the LIFE Act. Accordingly, the appeal must be summarily dismissed.

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