

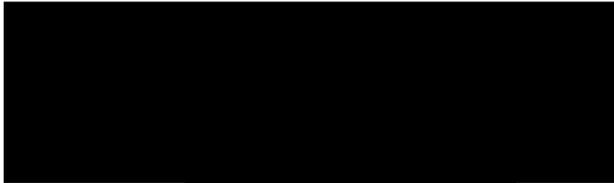
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U.S. Citizenship
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Services

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FILE:

MSC 02 249 61803

Office: NEW YORK

Date:

MAR 03 2006

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, 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, New York, New York, 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.

On the Form I-290B, Notice of Appeal, counsel for the applicant stated:

The District Director legally and factually erred in denying Applicant's requested relief of adjustment of status pursuant to LIFE legalization. The record will show that the Applicant is prima facie eligible for the requested relief. Kindly re-consider your decision and grant LPR status to the Applicant.

Counsel for the applicant noted on the Form I-290B that he would not submit a separate brief or evidence.

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."

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).

In the Notice of Intent to Deny (NOID), dated on or about March 30, 2005, the director stated that the applicant failed to submit evidence demonstrating his continuous unlawful residence in the United States for the required statutory period. The director specifically noted that the applicant had not submitted any credible, verifiable evidence that established residency in the United States prior to 1986. The director granted the applicant thirty (30) days to submit additional evidence. The record reflects that no additional evidence was received. In the Notice of Decision, dated September 15, 2005, the director denied the instant application based on the reasons stated in the NOID.

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. Counsel's assertions on the Form I-290B do not identify any legal or factual error and do not address any part of the director's decision. Without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner's burden of proof. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaighena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). 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.