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U.S. Citizenship
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FILE:



MSC 01 331 61239

Office: INDIANAPOLIS

Date:

MAR 06 2008

IN RE:

Applicant:



PETITION: 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 PETITIONER:

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. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "R. 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, Indianapolis, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

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 submitted insufficient evidence to credibly document his continuous residence in an unlawful status and his continuous presence in the United States during the relevant period. Specifically, the district director found that although the applicant had documented his presence in the United States after 1985, the evidence submitted in support of the application was insufficient to establish that he had entered the United States prior to January 1, 1982 and continuously resided in the United States in an unlawful status through November 12, 1985. Consequently, the application was denied on February 24, 2005.

On appeal, the applicant submits Form I-290B on which he states, "I feel that the evidence and information that I submitted with my LIFE ACT application is sufficient to warrant approval of my application. I will however try to gather and submit additional evidence and documentation."

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. The applicant's general statement on the Form I-290B, without specifically identifying any errors on the part of the director, is simply insufficient to overcome the well-founded and logical conclusions the director reached based on the evidence submitted by the applicant.

It is noted that on the Form I-290B, counsel for the applicant indicated that he would send a brief with the necessary evidence to the AAO within ninety days. To date there is no indication or evidence that the petitioner ever submitted a brief and/or evidence in support of the appeal with the Service or with the AAO. On February 26, 2008, the AAO sent a fax to counsel. The fax advised counsel that no evidence or brief had ever been received in this matter, and requested that counsel submit a copy of the originally submitted brief and/or additional evidence, if in fact such evidence had been submitted, within five business days. On March 3, 2008, the AAO received a fax from counsel's office, in which counsel claimed he no longer represented the applicant. Counsel requested a 60 day extension to forward the AAO's inquiry to his former client.

According to 8 C.F.R. § 103.3(a)(2)(i), an applicant "shall file the complete appeal including any supporting brief with the office where the unfavorable decision was made within 30 days after service of the decision." Although the petitioner requested additional time to submit its arguments on appeal, nearly three years have passed since the filing of the Notice of Appeal. The regulations do not allow an applicant an open-ended or indefinite period in which to supplement an appeal once it has been filed.

Although counsel requests an additional extension in this matter on behalf of his former client, the AAO's facsimile is not and should not be construed as requesting or permitting the applicant to submit a late brief and/or evidence in response to this request. Counsel's request for an additional 60 day extension is denied.

The applicant failed to address the reasons stated for denial and has not provided any additional evidence on appeal. The appeal must therefore be summarily dismissed.

Beyond the decision of the director, it is noted that on August 15, 2002, the applicant plead guilty in the Superior Court No. 6 of Tippecanoe County, Indiana, to Operating a Vehicle While Intoxicated While Having a Prior Conviction for Operating a Vehicle While Intoxicated, a violation of I.C. 9-30-5-3, a Class D Felony. (Cause No. [REDACTED]). An applicant who has been convicted of a felony or three or more misdemeanors in the United States is ineligible for adjustment to temporary resident status. Section 245A(a)(4)(B) of the Immigration and Nationality Act (the Act); 8 U.S.C. § 1255a(a)(4)(B). Furthermore, the regulation at 8 C.F.R. 245a.3(c) provides that an alien is ineligible to adjust to permanent resident status if convicted of a felony or three or more misdemeanors in the United States. For this additional reason, the appeal is dismissed.

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