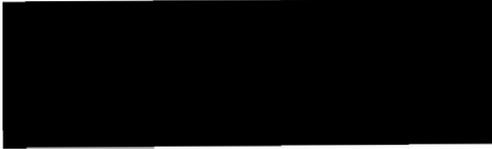


**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**



**U.S. Citizenship
and Immigration
Services**

PUBLIC COPY



lr

FILE: 
MSC 02 245 62783

Office: HOUSTON

Date:

MAY 30 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:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits Center. 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. If your appeal was sustained or remanded for further action, you will be contacted.

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, Houston, Texas, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The district director denied the application because the applicant had been deported from the United States in December 1982, and, therefore, had not continuously resided in this country from January 1, 1982, through May 4, 1988.

On appeal, counsel asserts that the applicant is entitled to a waiver for violations of sections 212(a)(9)(A) and (C) of the Immigration and Nationality Act (the Act). Counsel submits a Form I-690, Application for Waiver of Grounds of Inadmissibility.

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). Such an applicant shall be regarded as having resided continuously in the United States provided the applicant did not depart the country based upon an order of deportation. 8 C.F.R. § 245a.15(c)(3).

The record reflects that on November 8, 1982, a Form I-221S, Order to Show Cause, Notice of Hearing, and Warrant for Arrest of Alien was issued. On November 12, 1982, the applicant was ordered deported from the United States. The record contains a validly executed Form I-205, Warrant of Deportation, showing the applicant was subsequently deported from this country to Honduras via air on December 15, 1982, and, therefore, did not maintain continuous residence for the required period.

Approval of a waiver of inadmissibility under sections 212(a)(9)(A) or (C) of the Act does not cure a break in continuous residence resulting from a departure from the United States at any time during the period from January 1, 1982, and May 4, 1988, if the alien was subject to a final exclusion or deportation order at the time of the departure. 8 C.F.R. § 245a.18(c)(1). Relief is provided within the LIFE Act for absences based on factors other than deportation, namely absences due to emergencies and absences approved under the advance parole provisions. Clearly, regarding maintenance of continuous residence, it was not congressional intent to provide relief for absences under an order of deportation.

An alien applying for adjustment of status under the provisions of section 1140 of the LIFE Act has the burden of proving by a preponderance of evidence that he or she has continuously resided in an unlawful status in the United States from January 1, 1982, to May 4, 1988, is admissible to the United States under the provisions of section 212(a) of the Act, and is otherwise eligible for adjustment of status. 8 C.F.R. § 245a.11. The applicant has failed to meet this burden.

Finally, beyond the decision of the director, it is noted that the record also reflects that on February 23, 1983, and October 18, 1984, a Form I-221S was issued. On March 28, 1983, and December 5, 1984, the applicant was ordered deported from the United States. The record contains validly executed Form I-205s showing the applicant was subsequently deported from this country to Honduras via air on April 8, 1982, and December 26, 1984. The applicant, therefore, did not maintain continuous residence for the required period.

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