



U.S. Citizenship
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Services

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FILE: [REDACTED] Office: NEW YORK
MSC 02 142 611178

Date: NOV 03 2008

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 office that originally decided your case. 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, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The district director denied the application because he concluded the applicant had not established that he had continuously resided in the United States in an unlawful status since before January 1, 1982 through May 4, 1988. The director noted evidence in the record which contradicted the applicant's assertions and which had not been addressed by the applicant.

On appeal, counsel for the applicant asserts the applicant has submitted sufficient documentation and that the director failed to give proper weight to the evidence in the record.

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. *See* § 1104(c)(2)(B) of the LIFE Act and 8 C.F.R. § 245a.11(b).

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. 8 C.F.R. § 245a.12(e).

When something is to be established by a preponderance of evidence, the proof submitted by the applicant has to establish only that the assertion or asserted claim is probably true. *See Matter of E--M--*, 20 I&N Dec. 77 (Comm. 1989).

Although the 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. *See* 8 C.F.R. § 245a.2(d)(3)(vi)(L).

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 this case the applicant has not submitted any primary evidence, and relies solely on affidavits. The director noted evidence in the record which contradicts the applicant's assertion that he arrived in 1980, and that instead the applicant had actually first entered the United States on or about October 31, 1988, at which time he was arrested by the U.S. Border Patrol.

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. Both the applicant and counsel have failed to address the contradictory evidence noted in the denial, and thus have not addressed the stated reasons for the denial. The appeal must therefore be summarily dismissed.

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