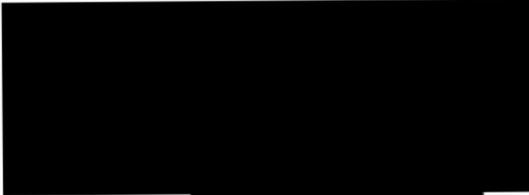




U.S. Citizenship
and Immigration
Services

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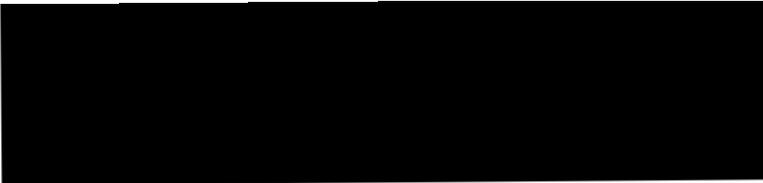
Office: LOS ANGELES

Date: MAY 08 2006

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:



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.

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, Los Angeles, California, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The director denied the application because the applicant had not demonstrated that she had entered the United States prior to January 1, 1982.

On appeal, counsel acknowledges that the applicant arrived in the United States in 1984. Counsel claims that the interviewing officer stated, "the father's entry prior to January 1, 1982 would be sufficient to qualify [the applicant] to adjust status to LPR..." Counsel asserts that the interviewing officer did not at any time indicate that the applicant would not qualify for the benefit being sought based on her initial entry date. Counsel questions why the interviewing officer would administer the citizenship test if it was apparent that the applicant did not qualify for the benefit being sought. Counsel requests that the Citizenship and Immigration Services (CIS) reconsiders its position and grant permanent status to the applicant.

An alien applying for permanent resident status under section 1104 of the LIFE Act must establish that he or she entered the United States *before January 1, 1982* and resided continuously in the United States in an unlawful status since such date and through May 4, 1988. See section 1104(c)(2)(B)(i) of the LIFE Act and 8 C.F.R. § 245a.11(b).

The regulation at 8 C.F.R. § 245a.10 provides that, in the alternative, an applicant may demonstrate that his or her spouse or parent filed a written claim for class membership before October 1, 2000. The applicant must establish that the family relationship existed at the time the spouse or parent initially attempted to apply for temporary residence (legalization) in the period of May 5, 1987 to May 4, 1988.

The record reflects that at the time of her LIFE interview on August 5, 2003, the applicant, under oath, admitted in a sworn statement that she first entered the United States in 1984.

Counsel, on appeal, asserts, "it is our understanding that derivative qualification for LIFE/Amnesty has been accepted by the USCIS on occasion."

As the applicant was born on October 31, 1984, the requisite relationship to her father did exist when the father may have attempted to apply for legalization during the May 5, 1987 through May 4, 1988 period. Therefore, the applicant could derive status from her parent under section 1104 of the LIFE Act. However, the basic statutory requirement *must* still be met.

It is clear from the regulation that every "eligible alien" – *i.e.*, not only the original applicant but also any spouse or child of that applicant – must establish that "[h]e or she entered the United States before January 1, 1982, and resided continuously in the United States in an unlawful status since that date through May 4, 1988." 8 C.F.R. § 245a.11(b). The applicant did not fulfill this requirement.

Counsel's statements on appeal have been considered. Counsel, however, cites no statute or regulation that compels CIS to approve an application where the statutory requirement has not been met regardless of what may have occurred at the time of the interview.

Given the applicant's inability to meet the statutory requirement of residence in the United States since before January 1, 1982, the applicant is ineligible for permanent residence under section 1104 of the LIFE Act.

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