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U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

PUBLIC COPY

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FILE: [redacted] Office: EL PASO Date: OCT 02 2009

MSC 02 232 62688

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 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.

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the Director, El Paso, Texas, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director determined that the applicant had not established that he resided in the United States in a continuous unlawful status from before January 1, 1982 through May 4, 1988, as required by section 1104(c)(2)(B) of the LIFE Act. The director noted that the applicant responded to a notice of intent to deny (NOID), but submitted duplicates of evidence previously provided, and failed to overcome the reasons for denial stated in the NOID.

On appeal, counsel for the applicant states only that the director erred in denying the application, because counsel claims that the Service "lost" the evidence provided by the applicant in response to the March 2, 2007 NOID. Counsel's assertion that the applicant cannot provide additional evidence to establish the requisite continuous residence is not persuasive. Counsel states that the applicant did not retain copies of the documents he had provided in response to the March 2, 2007 NOID. Counsel, however, does not provide any information or a list and description of the documents. It cannot be discerned, therefore, whether duplicates could be obtained for these documents, whether the information in the documents could be reconstructed, or whether the documents have probative value. 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 Obaigbena*, 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). The AAO will, therefore, determine this appeal based on the record of proceeding.

It is also noted that the director issued another NOID, dated February 29, 2008, and the applicant was granted 30 days to respond. As noted by the director, the applicant's response to the February 29, 2008 NOID consisted of duplicates of evidence previously provided. Counsel submits photocopies of some of the same affidavits previously provided, but does not submit any new evidence on appeal. Therefore, the record must be considered complete.

Any appeal that fails to state the reason for appeal, or is patently frivolous, will be summarily dismissed. 8 C.F.R. § 103.3(a)(3)(iv). 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 and has not addressed the basis for denial. The appeal must therefore be summarily dismissed.

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