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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:



Office: ATLANTA

Date:

MAR 31 2008

MSC 02 018 61963

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:

SELF-REPRESENTED

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.

Robert P. 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, Atlanta, Georgia, 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 failed to demonstrate that he resided in a continuous unlawful status in the United States beginning prior to January 1, 1982 to 1988.

On the Form I-290B, Notice of Appeal, the applicant stated:

I don't have evidence from year 1982 to 1988. We are not documented alien. That is the reason, I can't provide any evidence. But if you please, consider attached document and keep my employment authorization continued. I may support my U.S. born son and rest of my family until I get permanent residency which my sister sponsor.

The applicant submitted a Form I-797C Receipt Notice dated July 5, 2001, for an I-130, Immigrant Petition for Relative, Fiance (e), or Orphan, listing the applicant as the beneficiary. The applicant also submitted the second page of a previously submitted social security estimate of benefits showing the beneficiary had worked in the years 1992, 1996, 1997, 1998, 1999, and 2000.

Section 1104(c)(2)(B) of the LIFE Act states:

(i) In General – The alien must establish that the alien entered the United States before January 1, 1982, and that he or she has resided continuously in the United States in an unlawful status since such date and through May 4, 1988. In determining whether an alien maintained continuous unlawful residence in the United States for purposes of this subparagraph, the regulations prescribed by the Attorney General under section 245A(g) of the Immigration and Nationality Act (INA) that were most recently in effect before the date of the enactment of this Act shall apply.

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).

In the Notice of Intent to Deny (NOID), dated on or about January 26, 2005, the director stated that the applicant failed to submit evidence demonstrating his continuous unlawful residence in the United States from prior to January 1, 1982, through May 4, 1988. The director granted the applicant thirty (30) days to submit additional evidence. The record reflects that no additional evidence was received. In the Notice of Decision, dated March 8, 2005, the director denied the instant applicant based on the reasons stated in the NOID.

In this matter, the applicant acknowledges he does not have evidence to establish he resided in the United States for the requisite periods.

As stated at 8 C.F.R. § 103.3(a)(1)(v): "[a]n officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal."

A review of the decision reveals that the director accurately set forth a legitimate basis for denial of the application. On appeal, the applicant acknowledged he had not satisfied the requirements of eligibility for permanent resident status pursuant to the LIFE Act and failed to present additional evidence addressing the basis for denial. Therefore, based on the above, the applicant has failed to establish entry into the United States prior to January 1, 1982, and continuous unlawful residence through May 4, 1988, as required under Section 1104(c)(2)(B) of the LIFE Act. Given this, he is ineligible for permanent resident status under Section 1104 of the LIFE Act. Accordingly, the appeal must be summarily dismissed.

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