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U.S. Citizenship
and Immigration
Services



LA

FEB 22 2005

FILE:



Office: LOS ANGELES

Date:

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. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

A handwritten signature in cursive script, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Director
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 district director denied the application because the applicant had not demonstrated that he had continuously resided in the United States in an unlawful status since before January 1, 1982 through May 4, 1988.

On appeal, the applicant requests that his application be reconsidered and approved as he has a family to support.

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).

“Continuous unlawful residence” is defined at 8 C.F.R. § 245a.15(c)(1), as follows: An alien shall be regarded as having resided continuously in the United States if no single absence from the United States has exceeded *forty-five (45) days*, and the aggregate of all absences has not exceeded one hundred and eighty (180) days between January 1, 1982, and May 4, 1988, unless the alien can establish that due to *emergent reasons*, his or her return to the United States could not be accomplished within the time period allowed.

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).

When something is to be established by a preponderance of the evidence it is sufficient that the proof establish that it is probably true. *See Matter of E-- M--*, 20 I&N Dec. 77 (Comm. 1989).

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

In an attempt to establish continuous unlawful residence since before January 1982 through May 4, 1988, the applicant furnished:

- An employment letter purportedly signed by the vice president of [REDACTED] in Moreno Valley California which indicated that the applicant was employed as an agricultural worker from May 4, 1982 through October 31, 1988.
- An affidavit from [REDACTED] who indicated that the applicant resided with him at [REDACTED] California from May 4, 1985 through May 16, 1991.
- A letter from [REDACTED] owner of Greenbelt Growers in Riverside, California who asserted that he has been acquainted with the applicant since 1982.
- An affidavit from [REDACTED] who indicated that he has known the applicant since 1981 and the applicant resided in his home.

The director, in issuing a Notice of Intent to Deny, informed the applicant that there were inconsistencies in his absences from the United States as the dates of his departures and re-entries into the United States differed on his LIFE and Form I-687 applications and at each interview. While the applicant has not submitted a rebuttal, a review of the record does not reflect that any single absence from the United States has exceeded 45 days, and the aggregate of all absences has not exceeded 180 days between January 1, 1982, and May 4, 1988.

The employment letter from [REDACTED] has little evidentiary weight or probative value as the year the applicant's employment commenced as well as vice-president's signature appear to have been altered. Likewise, the year the applicant initially resided with [REDACTED] appears to have been altered and contradicts the applicant's Form I-687 application that listed residence at [REDACTED] from May 1988. The applicant has not provided an explanation for these discrepancies.

Doubt cast on any aspect of an applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence. It is incumbent upon an applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I. & N. Dec. 582 (BIA 1988).

Given the credibility issues arising from the documentation provided by the applicant, it is determined that the applicant has not met his burden of proof. The applicant has not established, by a preponderance of the evidence, that he entered the United States before January 1, 1982 and resided in this country in an unlawful status continuously from before January 1, 1982 through May 4, 1988, as required under 1104(c)(2)(B)(i) of the LIFE Act and 8 C.F.R. § 245a.11(b). Given this, the applicant is ineligible for permanent resident status under section 1104 of the LIFE Act.

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