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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

22



FILE:



Office: LOS ANGELES

Date: JAN 04 2005

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 black ink, 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 she had continuously resided in the United States in an unlawful status since before January 1, 1982 through May 4, 1988.

On appeal, the applicant asserts that she has no further documentation to submit to establish her residence in the United States. The applicant states that she was paid in cash for her services as a babysitter. The applicant requests that her application be reconsidered.

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).

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).

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 1, 1982, as claimed, the applicant furnished the following evidence:

- A notarized affidavit from [REDACTED] who indicated that the applicant resided and was employed as a babysitter at her home from December 1981 through August 1984.
- A letter dated April 30, 1990 from [REDACTED] president of Flowerland of California, Inc., who indicated that the applicant has been in his employ since April 17, 1988.
- An notarized affidavit from [REDACTED] who attested to the applicant's residence in the United States since December 1984.

The director determined that the documentation submitted was insufficient to establish continuous residence in the U.S. since before January 1, 1982 through May 4, 1988. On February 2, 2004, the director issued a Notice of Intent to Deny, which provided the applicant the opportunity to submit additional evidence of her continuous residence in the U.S. since before January 1, 1982 through May 4, 1988. The applicant, however, failed to respond to the notice.

The record contains a contradicting statement of which the applicant has not provided an explanation.

[REDACTED] indicated in her affidavit that the applicant resided at her home from December 1981 through August 1984. However, according to the notes of the interviewing officer, the applicant resided with her parents.

Doubt cast on any aspect of the evidence 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. See *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988).

Further, there is a significant period of time that has not been accounted for namely, September 1984 through April 16, 1988. The applicant claims to have been married on August 24, 1984, but does not submit a marriage certificate or evidence from her alleged husband in an effort to establish her residence and presence in the United States from September 1984 through May 4, 1988.

In light of the fact that the applicant claims to have continuously resided in the United States, this inability to produce contemporaneous documentation of residence raises questions regarding the credibility of the claim.

Given the absence of any contemporaneous documentation, along with the applicant's reliance on two affidavits, it is concluded that she has failed to establish continuous residence in the U.S. for the required period. Therefore, 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.