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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:

Office: LOS ANGELES

Date: JAN 13 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.

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 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 from before January 1, 1982 through May 4, 1988.

On appeal, the applicant argues that the notarized affidavits previously submitted are sufficient evidence to establish his continuous residence in the United States.

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 residence in the United States since before January 1, 1981 through May 4, 1988, the applicant submitted the following evidence:

- A notarized affidavit from [REDACTED] who attested to the applicant's residence in the United States since 1983.
- Notarized affidavits from [REDACTED] who attested to the applicant's residence in the United States since 1981.
- An affidavit of employment from [REDACTED] who indicated that the applicant was in his employ from January 1983 through June 1984 as a gardener in Los Angeles, California.
- A notarized affidavit from [REDACTED] who attested to the applicant's residence in the United States since 1981. Ms. [REDACTED] indicated that she accompanied the applicant to the INS office in 1987, when the officer refused to accept his application.

On February 24, 2004, the director issued a Notice of Intent to Deny, which informed the applicant that the documentation submitted was insufficient to establish continuous residence in the United States since before January 1, 1982 through May 4, 1988. The applicant was provided the opportunity to submit additional documentation. The applicant, in response, provided copies of the affidavits that were initially submitted.

The applicant has presented contradicting statements of which no explanation has been provided. The applicant claimed on his Form I-687 application and LIFE application that his first entry into the United States was in 1981. However, evidence from the applicant's prior A-file ([REDACTED]) which has been consolidated into the current file reveals that the applicant entered without inspection at the port of entry in West Palm Beach, Florida on

August 14, 1989. The applicant, in a sworn statement, asserted that he had no equities or property in the United States. This factor along with the fact that none of the affiants provided an address where the applicant resided throughout the period the affiants had purportedly known him raises questions about the authenticity of the documents the applicant has presented throughout the application process.

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).

Given the absence of contemporaneous documentation pertaining to this applicant, along with the applicant's reliance on affidavits, which do not meet basic standards of probative value, it is concluded that he has failed to establish continuous residence in an unlawful status from prior to January 1, 1982 through May 4, 1988, as required. 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.