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U.S. Citizenship
and Immigration
Services

PUBLIC COPY

JAN 21 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:

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 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, counsel asserts that the evidence submitted with the LIFE application should have been evaluated without regard to the difference in sex between the applicant and the aliases used.

It is noted that the director, in denying the application, did not address the evidence furnished initially, and in response to the Notice of Intent to Deny, and did not set forth the specific reasons for the denial pursuant to 8 C.F.R. § 103.3. As such, the documentation throughout the application process will be considered on appeal.

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, 1982 through May 4, 1988, the applicant submitted:

- An unsigned letter from the Department of Community Action (DCA) in Riverside County, California indicating that the applicant was employed as a custodian from October 1981 through May 1983.
- An earnings statement for the period ending September 4, 1983 addressed to [REDACTED] from [REDACTED] Fountain Valley, California.
- Several earnings statements issued in 1983 and addressed to [REDACTED] from West Coast [REDACTED]
- An earnings statement for the period ending October 25, 1984 addressed to [REDACTED] from [REDACTED] in Covina, California.
- An earnings statement dated July 11, 1984 from [REDACTED] Is it noted that no name is listed on the statement.
- Several earnings statements [REDACTED] during 1984 from [REDACTED] in Azusa, California.

- An amended Individual Income Tax return for 1985.
- Three pay stubs dated during May, July and September 1986 addressed to the applicant, but do not list the employer's name and address.
- a PS Form 3806, receipt for registered mail from United States Postal Service issued on May 2, 1988. It is noted that the applicant's name is not listed on the form.
- A Form G-361, index card dated November 20, 1993, which listed a date of entry of October 15, 1987.

The director determined that the documentation submitted was insufficient to establish the applicant's continuous residence in the United States. On June 19, 2003, the applicant was provided the opportunity to submit additional evidence to establish his continuous residence in the United States. The applicant, in response submitted copies of documentation that was previously submitted along with:

- An affidavit from [REDACTED] who attested to the applicant presence in the Riverside, California since 1981. [REDACTED] based her knowledge on having been good friends with the applicant since that time.
- An affidavit from [REDACTED] who attested to the applicant presence in the Riverside, California since June 1981. [REDACTED] based his knowledge on having been good friends with the applicant since that time.

Counsel's assertion, on appeal, that the applicant filed taxes in his own name based on amounts earned from employment under the assumed names is not supported by the record. The Individual Income Tax Returns provided by the applicant occurred subsequent to the time period in which the applicant allegedly worked under assumed names. The 1985 Amended Individual Income Tax Return has no evidentiary weight or probative value as it was not signed and was not certified as being filed.

Further, because the letter from DCA is not signed, and the earnings statement from [REDACTED] fails to list the applicant's name, these documents have no evidentiary weight or probative value.

On appeal, the applicant asserts because he was illegal in the United States, he was afraid to use his own name, and therefore during the years 1984 and 1985 he worked under the aliases Isabel A. Cortez and Olivia Hernandez.

Except for the applicant's own statement, the record contains no credible evidence to establish his alleged aliases. Without corroborative evidence from his purported employers, the applicant's statement has no probative value to establish that he is the same person as [REDACTED]

Given the numerous 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.