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U.S. Citizenship
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22

FILE: [REDACTED]

Office: CHERRY HILL, NJ

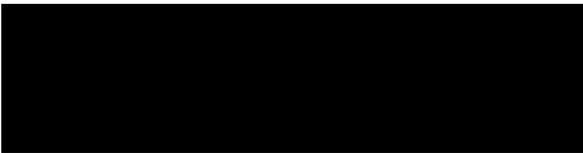
Date:

JAN 26 2005

IN RE: Applicant: [REDACTED]

PETITION: 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. 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, 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, Newark, New Jersey, 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, counsel reaffirms the applicant's claim to have entered the U.S. in May 1981 and to have continuously resided in this country from that time until May 4, 1988. In addition, counsel asserts that the affidavits and cash receipts submitted by the applicant are sufficient to establish her claim to eligibility.

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 Citizenship and Immigration Services (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 from prior to January 1, 1982 Through May 4, 1988, the applicant submitted the following:

- Eight separate and identical affidavits from [REDACTED] dated January 22, 2002. The affiants assert that they were acquainted with the applicant's husband and his family from 1981 to 1984. While the affiants attest to the applicant's husband and his family being present in the United States during that time, none of the affiants makes any specific reference to the applicant having been present in the U.S. during the aforementioned time;
- An affidavit from [REDACTED] dated October 17, 2003 asserting that the affiant met the applicant at a Hindu temple in Flushing, New York in 1981. The affiant indicates that the applicant has resided in the U.S. from 1981 to 1989 and that the applicant used to visit the affiant three or four times a year;
- A photocopied letter from [REDACTED] dated October 1, 2003, who asserts that the applicant worked for her as a "housekeeper" from November 8, 1981 to February 1984;

- A newspaper dated June 25, 2002. The newspaper contains an article regarding the applicant's and her husband's grocery store operation. The article indicates that the applicant's husband stated during the interview that he had been in business for almost 20 years; and,
- A photocopied lottery ticket dated October 10, 1982 as well as three separate photocopied cash receipts from [REDACTED] & Nut Company, only two of which are made out to the applicant, dated May 16, 1987, February 27, 1988, and February 6, 1992.

When the applicant completed her Form I-687 Application for Status as a Temporary Resident under Section 245A of the Immigration and Nationality Act (INA), on March 23, 1990, she indicated that she had lived in the U.S. since 1981 and last entered the U.S. on July 7, 1987. However, when she filed the current LIFE application, she provided a photocopy of her passport page showing she was admitted to the U.S. on October 12, 1988, as a visitor. The applicant did not account for failure to provide accurate information on her Form I-687. This raises questions regarding the credibility of her overall claim.

In addition, the applicant's claim on Form I-687 that she resided continuously in the U.S. from 1981 to 1987, with no absences, is contradicted by information on her LIFE application that she gave birth in India in 1982 and 1985. This further diminishes her credibility.

Eight of the affidavits are identical and make no specific reference to the applicant or attest to her having resided in the U.S. during the period in question. These affidavits are lacking basic and necessary information and, as such, fall far short of containing what such a document should include in order to render it probative for the purpose of establishing an applicant's continuous unlawful residence since before January 1, 1982. The affidavit from Ambalal Patel alone is not sufficient to establish the applicant's claim to eligibility.

Furthermore, although not noted by the director, the photocopied letter from [REDACTED] states that she employed the applicant as a housekeeper from 1981 to 1984. However, on her Form I-687 Application for Status as a Temporary Resident under Section 245A of the Immigration and Nationality Act (INA), the applicant stated that she has only worked as a "baby sitter" in her home since she arrived in the United States. The applicant's failure, on appeal, to account for this discrepancy regarding her employment during the period in question raises issues regarding the credibility of her documentation and claim.

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 and her contradictory statements regarding her entry, it is concluded that she has failed to establish continuous residence in an unlawful status from prior to January 1, 1982 through May 4, 1988, as required for eligibility for legalization under section 1104(c)(2)(B)(i) of the LIFE Act.

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