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**U.S. Citizenship
and Immigration
Services**

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FILE:



Office: HOUSTON, TEXAS

Date:

JAN 26 2005

IN RE:

Applicant:



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, Houston, Texas, 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 been granted conditional residence during a portion of the period between January 1, 1982 and May 4, 1988. The applicant therefore, had not resided in an unlawful status for the entire requisite period.

On appeal, the applicant states that he was not granted permanent residency the first time he applied and that the time he was a conditional resident of the U.S. should now be considered illegal.

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).

On April 6, 1987, the applicant was admitted to the United States as a Conditional Permanent Resident, CR-1, on the basis of a valid marriage to a United States citizen. The applicant and his spouse were requested by the district director to appear for an interview on July 13, 1989. On that date the applicant appeared without his spouse. Notes taken at the interview indicate that the applicant informed the officer that he and his wife had separated in June 1989 and that he believed that his wife had subsequently traveled to Egypt for an unknown period of time. Thereafter, on July 21, 1989, the applicant's conditional residence was terminated due to failure of the applicant's spouse to appear at an interview in connection with a joint petition to remove conditional status pursuant to section 216(C)(2)(A) of the Act. 8 C.F.R. §216.4(b)(3).

The record clearly indicates that from April 6, 1987 to July 21, 1989, the applicant lawfully resided in the United States as the spouse of a United States citizen. While he eventually lost that status, there is no basis upon which to conclude he was in an unlawful status for that two-year period. Consequently, the applicant is statutorily ineligible for adjustment to permanent resident status, as he failed to reside continuously in the United States, in an unlawful status, from before January 1, 1982 through May 4, 1988, as set forth at 8 C.F.R. § 245a.11(b).

The AAO notes that the record also contains an adjudicated Form I-687, legalization application, which should be forwarded to the appropriate office for adjudication.

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