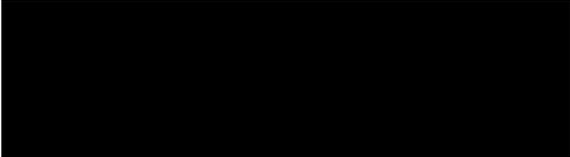




U.S. Citizenship
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Services

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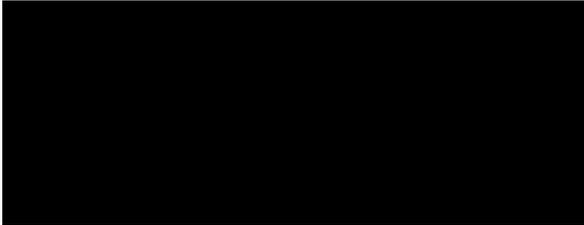
Applicant:



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 (AAO) 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, the applicant asserts that he has submitted sufficient documentation establishing continuous residence in the United States from prior to January 1, 1982 through May 4, 1988. The applicant submits a letter from [REDACTED] owner of The [REDACTED] in Los Angeles, California who indicates that he met the applicant in the early 1980s when his uncle, [REDACTED] was in his employ

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).

When something is to be established by a preponderance of the evidence it is sufficient that the proof establish that it is probably true. *See Matter of E-- M--*, 20 I&N Dec. 77 (Comm. 1989).

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).

At the time of his LIFE interview, in a sworn statement dated May 4, 2004, the applicant admitted in part:

That I first entered the US in 1982, on or around July. My uncle brought me in the US. His name is [REDACTED]. We entered in Tijuana [REDACTED] without inspection or illegally. That I came to the US to study and find a job to help my family. Immediately after crossing the border in 1982, we went to my uncle's house located in [REDACTED] in Los Angeles. I stayed there for four years until about 1986. That during this time, I helped with my uncle in the bakery. That I moved to Studio City and live there for 2 years. That I did not work from 1986 to 1988 and that I was supported by my girlfriend named [REDACTED].

Due to the applicant's sworn testimony, the director determined that the documentation submitted with his LIFE application was insufficient to establish continuous residence in the United States prior to January 1, 1982 through May 4, 1988. The director issued a Notice of Intent to Deny dated on June 29, 2004, informing the applicant that there were inconsistencies between his sworn statement and the documentation provided with his LIFE application. Namely, the date of his first entry and the dates of his departures from the United States indicated on his Form I-700 and I-687 applications and Form for Determination of Class Membership.

In response, the applicant, through his representative, stated that he entered the United States in 1981 as indicated on his LIFE application. The applicant asserted that he attested to facts that he could remember and

“at no given moment during the interview or before the interview review information on Form I-687, in which information was filled several years ago, because he thought this information would be too difficult to remember.” The applicant contended that he “has many dates of entry due to lack of correct information issued by the preparer that initiated his first case.” Regarding his departures, the applicant acknowledged his departures in 1996 and 1997 to Ecuador to visit his family; however, he never stated that he departed on June 16, 1987 to Mexico to see his mother because she is a National of Ecuador and had never been ill in Mexico. The applicant asserted that this incorrect information was submitted by a former preparer of his application. The applicant requested that his response clarifying the inconsistencies be considered because due to a lack of misunderstanding between the preparer and himself, information had been provided incorrectly.

The applicant contends that the preparer of his Form I-700 application listed incorrect information on the application. The applicant, however, in affixing his signature on item 32 of his Form I-700 application, certified that the information he provided was true and correct. Further, a review of the Form for Determination of Class Membership does not indicate that anyone other than the applicant completed the form.

A review of the record reveals other inconsistencies that further undermine the credibility of the applicant’s claim.

First, the applicant indicated in his sworn testimony, that he resided at his uncle’s home located [REDACTED] in Los Angeles, California and assisted him in the bakery store from 1982 to 1986. The applicant, however, has not provided evidence such as a lease agreement, rent receipts, or utility bills in his uncle’s name or a statement from the uncle to corroborate his claim. Simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

Second, along with a school identification card, which expired on June 30, 1987, the applicant provided a letter dated April 30, 2004 from [REDACTED] counselor at the [REDACTED] Occupational Center in Los Angeles, California who attested to the applicant’s enrollment at Central Adult High School in 1985, and a letter dated May 6, 1989 purported signed by [REDACTED] an assistant principal of Central High School. In her letter, [REDACTED] asserted that she was unable to provide information regarding the applicant’s attendance history because their computer records did not go that far back. The letter purportedly from [REDACTED] attested to the applicant’s enrollment from April 5, 1981 through May 10, 1985.

The AAO does not view the documents from [REDACTED] as substantive enough to support a finding that the applicant entered and began residing in the United States before January 1, 1982. The letter purportedly from [REDACTED] has no probative value or evidentiary weight because as of April 5, 1981, the applicant had not entered the United States, and the information pertaining to the applicant appears to have been entered onto the letter at a later time. The letter from [REDACTED] does not corroborate the applicant’s sworn testimony to have “helped with my uncle in the bakery” nor does it indicate that the applicant entered the United States prior to January 1, 1982. The record only supports evidence of continuous residence in the United States commencing in 1985.

Given the absence of any contemporaneous documentation, along with the applicant’s reliance on a minimal documentation, it is concluded that he 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.