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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



FILE: [REDACTED] Office: PHOENIX Date: **SEP 29 2005**

IN RE: Applicant: [REDACTED]

L2

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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, Phoenix, Arizona, 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, counsel asserted that the director failed to consider all of the evidence. Counsel stated that a brief and/or evidence would be submitted within 30 days to the AAO. However, eleven months later, no correspondence has been presented by counsel.

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 Service (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 the applicant filed his LIFE application, he provided no evidence to establish his continuous residence and physical presence in the United States since before January 1, 1982 through May 4, 1988 and from November 6, 1986 through May 4, 1988 respectively.

On November 13, 2003, the applicant was requested to submit evidence establishing his residence in the United States since before January 1, 1982 through May 4, 1988 and his physical presence from November 6, 1986 through May 4, 1988. The applicant, in response, provided an affidavit from [REDACTED] who indicated that he has known the applicant since 1986 and has remained in contact with the applicant since that time. No other evidence was provided.

Subsequently, the director issued a Notice of Intent to Deny dated February 17, 2004, which provided the applicant another opportunity to submit evidence of continuous residence in the United States since before January 1, 1982 through May 4, 1988. The applicant, however, failed to respond to the notice.

The applicant in this case asserts that he has resided continuously in the United States since May 1981. Nevertheless, he has only been able to provide CIS with *one* affidavit in support of his claim of residence. It should also be emphasized that the applicant has submitted no documentation to indicate where he was *employed* during requisite period in the United States.

Given the absence of any contemporaneous documentation, along with the applicant's reliance on a single affidavit, it is concluded that he has failed to establish continuous residence and physical presence in the United States for the requisite period.

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