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FILE:



Office: DALLAS

Date: OCT 20 2006

MSC 01 340 60154

IN RE:

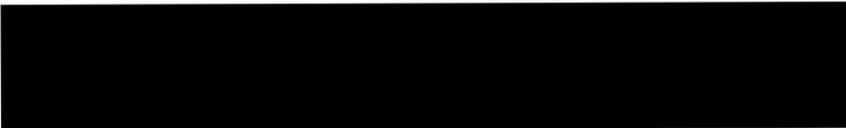
Applicant:



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. The file has 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, Chief  
Administrative Appeals Office

**DISCUSSION:** The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the District Director, Dallas, Texas, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The district director denied the application because she concluded the applicant had not established 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 for the applicant states that the applicant has established eligibility. However, the director issued a Notice of Intent to Deny (NOID) on December 18, 2003, detailing the results of investigations into the applicant's assertions, listing several findings which indicated the facts as presented by the applicant were not true, and giving the applicant 30 (thirty) days to respond. The applicant failed to address the director's findings or provide any evidence explaining the inconsistencies revealed by the investigation.

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. *See* § 1104(c)(2)(B) of the LIFE Act and 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. 8 C.F.R. § 245a.12(e).

When something is to be established by a preponderance of evidence, the proof submitted by the applicant has to establish only that the assertion or asserted claim is probably true. *See Matter of E--M--*, 20 I&N Dec. 77 (Comm. 1989). In this case the applicant was presented with the findings of an investigation which directly refuted that the applicant resided unlawfully in the United States. On appeal counsel for the applicant failed to address the director's findings or present any further evidence which would explain the facts revealed during the investigation.

As stated in 8 C.F.R. § 103.3(a)(3)(iv), any appeal which is filed that fails to state the reason for appeal, or is patently frivolous, will be summarily dismissed. It is not sufficient to simply disagree with a director's decision without specifically addressing an erroneous finding of fact or misapplication of law. Both the applicant and counsel have failed to address the reasons stated for denial and have not provided any additional evidence on appeal. The appeal must therefore be summarily dismissed.

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