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U.S. Citizenship  
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FILE: [REDACTED]  
MSC 02 085 62738

Office: HOUSTON

Date: MAR 05 2007

IN RE: Applicant: [REDACTED]

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:

SELF-REPRESENTED

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.

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

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, Houston, Texas and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The district director decided that the applicant had not established that she resided in the United States in a continuous unlawful status from before January 1, 1982 through May 4, 1988, as required by section 1104(c)(2)(B) of the LIFE Act. This decision was based on the district director's determination that the applicant had exceeded the forty-five (45) day limit for single absences from the United States during this period, as set forth in the regulations at 8 C.F.R. § 245a.15(c)(1).

On appeal, the applicant denies that she had admitted to being out of the United States for approximately one year and that detailed affidavits support her position that she resided in the United States continuously from 1981 through May 4, 1988 except for brief periods.<sup>1</sup>

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. Section 1104(c)(2)(B) of the LIFE Act; 8 C.F.R. § 245a.11(b).

"Continuous unlawful residence" is defined in the regulations at 8 C.F.R. § 245a.15(c)(1), as follows:

*Continuous residence.* An alien shall be regarded as having resided continuously in the United States if:

- (1) No single absence from the United States has exceeded *forty-five (45) days*, and the aggregate of all absences has not exceeded one hundred and eighty (180) days between January 1, 1982, and May 4, 1988, unless the alien can establish that due to *emergent reasons*, his or her return to the United States could not be accomplished within the time period allowed. [Emphasis added.]

The director's determination that the applicant had been absent from the United States for over 45 days was based on the applicant's statement during the course of her LIFE Act adjustment interview on August 27, 2003. During that interview, the applicant stated that, although she couldn't recall the exact dates, she left the United States in 1981 and was gone for approximately one year, returning in April or May 1982.

On appeal, the applicant states that this alleged statement by her is incorrect, and that on her Form I-687, Application for Status as a Temporary Resident, she listed her absences from the United States as from December 12, 1981 to January 25, 1982 and from April 26, 1983 to May 11, 1983. On appeal, the applicant submits February 9, 2004 statements from [REDACTED] and [REDACTED] in which they stated that the applicant traveled to Mexico on December 12, 1981 and returned on January 25, 1982. However, these unsupported statements do not constitute competent, objective evidence sufficient to

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<sup>1</sup> It is noted that an attorney who is currently on the list of suspended and expelled practitioners represents the applicant. (See <http://usdoj.gov/eoir/profcond/chart.htm>, accessed on February 19, 2007.) Therefore, CIS may not recognize counsel in this proceeding.

establish the applicant's presence and residency in the United States during the relevant time frame. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the applicant submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

We note that the applicant submitted no documentary evidence during the initial stages of her application process that verified her presence and residency in the United States prior to 1982. Further, despite statements to the contrary on appeal, the record does not reflect that the applicant responded to the Notice of Intent to Deny dated January 20, 2004, in which the district director notified the applicant of the deficiencies in her evidence and that she had not established that she met the continuous residency requirement.

The applicant has, therefore, failed to establish that she resided in continuous unlawful status in the United States from before January 1, 1982 through May 4, 1988, as required under section 1104(c)(2)(B) of the LIFE Act. Given this, she 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.