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U.S. Citizenship
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Services

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FILE:



Office: NEW YORK

Date:

OCT 09 2007

MSC-02-094-62218

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 National Benefits Center. 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 Director of the New York District Office and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

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). The regulation at 8 C.F.R. § 245a.15(c)(1) further states that an applicant shall be regarded as having continuously resided in the United States if 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 during the requisite period unless the applicant can establish that his or her return was untimely due to emergent reasons. The regulation at 8 C.F.R. § 245a.12(e) state that applicants for adjustment of status to that of a Legal Permanent Resident under this section bear the burden of establishing that they have resided continuously in the United States for the duration of the requisite period by a preponderance of the evidence. The regulation at 8 C.F.R. § 245a.12(f) goes on to say that to meet their burden of proof, an applicant must provide evidence of eligibility apart from his or her own testimony.

In her Notice of Intent to Deny (NOID) the director noted that the applicant did not submit evidence apart from his own testimony that was sufficient to prove, by a preponderance of the evidence that he maintained continuous residence for the duration of the requisite period. Though the director noted that the applicant submitted affidavits from [REDACTED] and [REDACTED] that stated that the applicant maintained continuous residence for the duration of the requisite period, the director found that these affidavits were lacking. Specifically, she stated that they lacked documents identifying the affiants, proof that the affiants were in the United States during the requisite period and proof that there was a relationship between the applicant and the affiant such as photographs and a current phone number at which the affiant may be reached. She therefore found that they were not credible evidence. The director went on to say that though the applicant submitted receipts from Easter Welding Inc., she found these not to be credible as the dates on these receipts, in 1987 and 1988, were more than one decade before the copyright date of the receipt, which was 1999. The director found that this discrepancy cast doubt on the credibility of other evidence submitted by the applicant. The director granted the applicant thirty (30) days within which to submit additional evidence in support of his application. Though the director noted that she did receive additional evidence, she found this evidence insufficient to overcome her reasons for denial as stated in her NOID and denied the application.

On appeal, the applicant asserts that he has lived in the United States for more than twenty-five (25) years. He goes on to state that that he has submitted affidavits and that it is very difficult to obtain records pertaining to the requisite period. The applicant does not submit additional evidence with his appeal.

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. The applicant has failed to address the reasons stated for denial and has 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.