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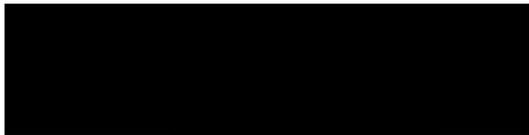
U.S. Department of Homeland Security
20-Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
MSC 02 256 61807

Office: NEW YORK

Date: FEB 08 2008

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: SELF-REPRESENTED

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.

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, New York, New York, 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 failed to demonstrate that he entered the United States before January 1, 1982, and resided in a continuous unlawful status through May 4, 1988.

On appeal, the applicant submits a brief statement.

Section 1104(c)(2)(B) of the LIFE Act states:

(i) In General – The alien must establish that the alien entered the United States before January 1, 1982, and that he or she has resided continuously in the United States in an unlawful status since such date and through May 4, 1988. In determining whether an alien maintained continuous unlawful residence in the United States for purposes of this subparagraph, the regulations prescribed by the Attorney General under section 245A(g) of the Immigration and Nationality Act (INA) that were most recently in effect before the date of the enactment of this Act shall apply.

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).

On November 3, 1989, the applicant applied for class membership in a legalization class-action lawsuit and submitted a Form I-687, Application for Status as a Temporary Resident. On his Form I-687, the applicant indicated that he entered the United States for the first time on November 27, 1981, and the second time on February 9, 1988.

On June 13, 2002, the applicant filed a Form I-485, Application to Register Permanent Resident or Adjust Status, under section 1104 of the LIFE Act. On his Form I-485, the applicant indicated that he had last entered the United States on February 9, 1988. In support of the application the applicant submitted documentation establishing his residence in the United States from June 1998 until the date of filing the application.

On March 3, 2004, the applicant was interviewed in connection with his I-485 application. At that time, the applicant stated, under oath, that the first and only time he had ever entered the United States was as a non-immigrant visitor on February 9, 1988.¹

¹ The record contains photocopies of pages from the applicant's Senegalese passport (No. [REDACTED]) issued on March 21, 1986, showing that he was issued a one-entry non-immigrant visitor's visa as a "member of the dance troupe

In a Notice of Intent to Deny (NOID), dated January 28, 2005, the district director stated that the applicant failed to submit evidence demonstrating his continuous unlawful residence in the United States from prior to January 1, 1982, through May 4, 1988. The director granted the applicant 30 days to submit additional evidence. In response, the applicant submitted a letter claiming that he had been mistaken as to his testimony at interview. However, he provided no new probative evidence to support that claim.

The district director concluded that the applicant had failed to provide sufficient evidence of his continuous, unlawful residence in the United States from prior to January 1, 1982, through May 4, 1988. The director denied the application on September 22, 2005.

On appeal, the applicant submits a brief statement in which he maintains that he has been residing in the United States since 1981 and requests another chance to explain his situation. Again, the applicant submits no new probative evidence in support of his appeal.

It is concluded that the applicant has failed to establish that he 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, he is ineligible for permanent resident status under section 1104 of the LIFE Act.

It is noted that the record reflects that the applicant was arrested on June 23, 1993, in New Jersey, and charged with "Threaten to Kill," in violation of section 2C:12-3B. The charge was reduced to "Harassment," in violation of section 2C:33-4, and dismissed on July 20, 1993.

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