

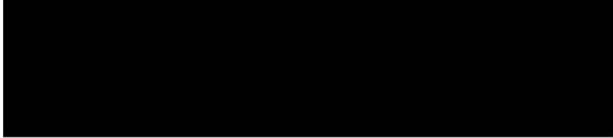
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**U.S. Citizenship
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Services**

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invasion of personal privacy

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FILE:



MSC 03 249 60125

Office: LAS VEGAS

Date:

FEB 25 2009

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. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits Center. 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. If your appeal was sustained or remanded for further action, you will be contacted.

A handwritten signature in black ink, appearing to read "John F. Grissom".

John F. Grissom, Acting Chief
Administrative Appeals Office

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the director in Las Vegas, Nevada. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be summarily dismissed.

The applicant, a native of Mexico, filed his current application under the LIFE Act (Form I-485) on June 6, 2003. By decision dated March 22, 2006, the director denied the application on the ground that the record failed to establish that the applicant resided continuously in the United States in an unlawful status from before January 1, 1982 through May 4, 1988, as required under section 1104(c)(2)(B)(i) of the LIFE Act.

In his decision the director cited the applicant's sworn testimony at an interview for LIFE legalization on October 15, 2002, that he had worked in the United States as a migrant worker on a seasonal basis between 1979 and 1985, and only in 1985 began residing continuously in the United States. This testimony, the director noted, resulted in the withdrawal of the applicant's initial LIFE Act application (MSC 02 061 62131, filed November 28, 2001) on a document co-signed by the applicant and the interviewing officer, witnessed by the applicant's attorney, and dated October 15, 2002. In his current application the applicant has changed his story, asserting that he resided continuously in the United States during the entire period required for LIFE legalization. The director indicated in his decision that the affidavits and other documentation submitted by the applicant were sufficient to establish the applicant's intermittent presence in the United States as a migratory worker, consistent with his earlier testimony that he was a seasonal worker who returned to Mexico every year from 1979 to 1985, but insufficient to establish that the applicant resided continuously in the United States from before January 1, 1982 through May 4, 1988.

On appeal counsel asserts that the evidence of record establishes the applicant's continuous residence in the United States from before January 1, 1982 through May 4, 1988. Counsel submits an affidavit by the applicant which repeats his story in the current proceeding that he entered the United States in 1979 and, after Christmas visits to Mexico in 1979 and 1980, did not return to Mexico again until Christmas 1987, when he visited for one month. No additional documentation has been submitted, and the applicant has not reconciled this story with his earlier sworn statement, in conjunction with the withdrawal of his original LIFE Act application, that he did not establish permanent residence in the United States until 1985.

As provided in 8 C.F.R. § 103.3(a)(3)(iv), any appeal that fails to state the reason for appeal, or is patently frivolous, will be summarily dismissed.

A review of the decision issued on March 22, 2006 confirms that the director accurately set forth a legitimate basis for denial of the application. On appeal the applicant simply reiterates his current story of continuous residence in the United States from 1981 onward – in contradiction to his sworn statement on October 15, 2002, that he was only intermittently present in the United States until 1985 – without submitting any documentary evidence in support of his current story. In short, the applicant has not set forth a credible basis for his appeal.

The AAO determines that the applicant's appeal is frivolous, within the meaning of 8 C.F.R. § 103.3(a)(3)(iv). In accordance with the regulation, therefore, the appeal will be summarily dismissed.

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