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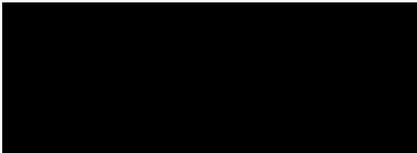
U.S. Department of Homeland Security
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Washington, DC 20529

INS
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U.S. Citizenship
and Immigration
Services



FILE: [Redacted]

Office: Seattle

Date: JUL 14 2004

IN RE: Applicant: [Redacted]

PETITION: 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. 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.

Robert P. Wiemann, Director
Administrative Appeals Office

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

The district director denied the application because the applicant had not demonstrated 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 submits a separate statement in which he asserts that, in rendering his decision, the district director failed to take into consideration substantial evidence submitted in support of the applicant's claim to continuous residence in the U.S. since 1981.

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).

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).

When something is to be established by a preponderance of the evidence it is sufficient that the proof establish that it is probably true. *See Matter of E-- M--*, 20 I&N Dec. 77 (Comm. 1989).

Although CIS regulations provide an illustrative list of contemporaneous documents that an applicant may submit, the list also permits the submission of affidavits and any other relevant document. 8 C.F.R. § 245a.2(d)(3)(vi)(L).

In an attempt to establish continuous unlawful residence since prior to January 1, 1982, the applicant submits the following:

- An affidavit from [REDACTED] attesting to the applicant having visited him in Canada from June 8, 1987 to July 10, 1987;
- An affidavit from [REDACTED] attesting to having known the applicant since June 1987;
- An I-705 Affidavit Confirming Seasonal Agricultural Employment of an Applicant for Temporary Residence Status Under Section 210 of the Immigration and Nationality Act, along with a corresponding separate employment statement, indicating the applicant performed seasonal agricultural duties with almonds, cotton and sugar beets for Elmer Andreotti at Andreotti Farms in Buttonwillow, California, from March 17, 1981 to April 18, 1990, for which he was paid in cash;

- An undated, handwritten letter from [REDACTED] indicating that during the time the applicant worked for him, he was provided with living accommodations at the ranch;
- A form affidavit from [REDACTED] in which the affiant attests to the applicant having resided in Bakersfield, California from November 1981 to May 1990. The affiant bases his knowledge on having been a friend, co-worker and roommate of the applicant;
- A Form I-687 Application for Status as a Temporary Resident under Section 245A of the Immigration and Nationality Act (INA), which was signed by the applicant on December 11, 1991;
- A Landlord's Affidavit from [REDACTED] attesting to the applicant having been his tenant from December 1981 to November 1985;
- A Landlord's Affidavit from [REDACTED] attesting to the applicant having been his tenant from July 1986 to January 1988; and
- A Landlord's Affidavit from [indecipherable signature] of Equity I Loans, attesting to the applicant having been a tenant from January 1988 to May 1990.

As stated above, the inference to be drawn from the documentation provided shall depend on the *extent* of the documentation. In the present case, the extremely minimal evidence furnished cannot be considered extensive, and in such cases a negative inference regarding the claim may be made as stated in 8 C.F.R. § 245a.2(12)(e).

In *Matter of E-- M--*, *supra*, the applicant had established eligibility by submitting (1) the original copy of his Arrival-Departure Record (Form I-94), dated August 27, 1981; (2) his passport; (3) affidavits from third party individuals; and (4) an affidavit explaining why additional original documentation is unavailable. Unlike the alien in *Matter of E-M-*, the present applicant does not offer any explanation as to *why* he has been unable to provide additional evidence to support her claim.

As previously noted, 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). In this case, the applicant has submitted no contemporaneous documentation to establish his presence in the U.S. from March 1981 -- the time he claimed to have commenced residing in the U.S. -- through May 4, 1988. In light of the fact that the applicant claims to have continuously resided in the U.S. since 1981, his inability to provide *any* contemporaneous documentation of residence raises serious questions regarding the credibility of the claim.

The applicant has submitted eight affidavits, most of which fail to specify the basis of the affiants' knowledge or how they became acquainted with the applicant. Additionally, many of the affidavits are not verifiable as they are not accompanied by the affiants' phone numbers or addresses and, therefore, do not provide a means

by which the affiants may be contacted. Nor do these affidavits include the addresses where the applicant resided throughout the period during which the affiants have known the applicant. In the case of the I-705 employment affidavit and corresponding statement from [REDACTED] the affiant does not specify the *exact* dates of employment and fails to indicate that the information included is taken from official company records or, if so, where those records may be accessed by Citizenship and Immigration Services (or CIS).

In support of his application, the applicant provided "Landlord's Affidavits" consisting of form affidavits from three individuals, all of whom represent themselves as having provided rental quarters to the applicant. The wording of all three fill-in-the-blank affidavits is virtually *identical* – including typographical errors -- with relevant information typed into blank spaces. These documents appear to have been prepared *for* the affiants rather than *by* the affiants. As such, the affidavits do not have the appearance of originating from the personal knowledge of the affiants. Such affidavits cannot be considered independent, corroborative evidence sufficient to establish the applicant's claim to residence during the period in question. It should also be noted that these Landlord Affidavits, all of which attest to the applicant's residence with each affiant/landlord during the period from December 1981 to May 1990, are at variance with the undated, handwritten letter from [REDACTED]. In that letter, [REDACTED] specified that during the time the applicant purportedly performed agricultural labor for him, *i.e.* March 17, 1981 to April 18, 1990, he was provided with living accommodations at the ranch. However, the applicant's documentation, including his I-687 application, fails to include reference to any residence with [REDACTED] during the period in question. Neither the applicant nor his attorney attempt to explain, resolve or reconcile this inconsistency in the documentation, which considerably diminishes the credibility of the applicant's claim to residence.

Finally, the district director, in his decision of denial, noted that the applicant's claim to continuous residence was contradicted by the information contained in the applicant's file. Specifically, an Indian passport issued to the applicant by the Consulate General of India in New York indicated that a *previous* passport had been issued to the applicant on *June 4, 1982* in the city of Jalandhar, India. In a personal statement dated December 16, 2003, the applicant responded to this finding, stating that he had applied for this Indian passport in Jalandhar, Punjab, in June 1980. According to his statement, in February 1981, his agent arranged to bring him to the U.S. using another person's passport. This passport, according to the applicant, was not issued until 1982 because, according to the applicant, it is common for the Indian government to take two years to issue such documents. The applicant also explained that the passport had been mailed by the issuing office to the applicant's parents in India, since the applicant had been residing at that location prior to departing for the U.S. However, the applicant has submitted no independent, corroborative evidence to support these assertions. As such, the applicant fails to resolve the district director's finding that the notation on his passport of a previous passport having been issued to the applicant in Jalandhar, India, on June 4, 1982, is clearly at variance with the applicant's claim to continuous residence in the U.S. since 1981.

Given the absence of contemporaneous documentation pertaining to this applicant, along with his reliance on affidavits which do not meet basic standards of probative value, it is concluded that he has failed to establish continuous residence in an unlawful status from prior to January 1, 1982 through May 4, 1988, as required.

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