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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services



FILE: [Redacted] Office: Los Angeles

Date: 01/07/07

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: 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.

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 District Director, Los Angeles, 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 had not demonstrated that he had continuously resided in the United States in an unlawful status from before January 1, 1982 through May 4, 1988.

On appeal, the applicant asserts that he has submitted sufficient evidence, including contemporaneous evidence, to support his claim of continuous residence in this country since prior to January 1, 1982. The applicant submits photocopies of previously provided documents in support of his appeal.

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. 8 C.F.R. § 245a.12(e). When something is to be established by a preponderance of evidence it is sufficient that the proof only establish that it is probably true. *See Matter of E-- M--*, 20 I&N Dec. 77 (Comm. 1989).

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).

Although the 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. *See* 8 C.F.R. § 245a.2(d)(3)(vi)(L).

The applicant is a class member in a legalization class-action lawsuit and as such, was permitted to previously file a Form I-687, Application for Temporary Resident Status Pursuant to Section 245A of the Immigration and Nationality Act (INA) on November 29, 1989. On the Form I-687 application, the applicant indicated that he first entered and began residing in this country in November 1981. At part #33 of the Form I-687 application where applicants were asked to list all residences on the United States from the date of their first entry, the applicant listed the following addresses:

- [REDACTED] from November 1981 to June 1984;
- [REDACTED] from June 1984 to May 1987; and,
- [REDACTED] from May 1987 to November 29, 1989, the date the Form I-687 application was submitted.

In an attempt to establish continuous unlawful residence since before January 1, 1982, as claimed, the applicant furnished the following evidence:

- An affidavit signed by [REDACTED] who provided her address and stated that she had met the applicant in 1981 while he working as a street vendor. [REDACTED] also provided the applicant's addresses and corresponding periods of residence from November 1981 to November 22, 1989, the date the document was executed;
- An affidavit signed by [REDACTED] who provided her address and stated that she had met the applicant in 1981 in Manhattan while he working as a street vendor. [REDACTED] also provided the applicant's addresses and corresponding periods of residence from November 1981 to November 25, 1989, the date the document was executed;
- A letter dated November 18, 1989, containing the letterhead and telephone number of the Hotel Bryant at [REDACTED] that is signed by manager, Assane Sacare. [REDACTED] stated that the applicant had resided at this address from November 1981 to June 1984; and,
- A letter dated November 18, 1989, containing the letterhead of the Hotel Bryant at [REDACTED] that is signed by [REDACTED] stated that the applicant had resided in apartment 103 at this address from June 1984 to May 1987.

Subsequently, on February 4, 2002, the applicant filed his LIFE Act application. The applicant provided photocopies of previously submitted documents, as well as a copy of a letter dated November 18, 1989, containing the letterhead and telephone number of the [REDACTED] that is signed by [REDACTED] stated that the applicant is member of the Muslim community who has been attending prayer services at the Masjid since November 1981.

The record shows that the applicant appeared for an interview relating to his LIFE Act application before an officer of the Immigration and Naturalization Service, or the Service (now Citizenship and Immigration Services, or CIS) on June 4, 2003. The notes of the interviewing officer show that during the interview, the applicant stated that he lived in Miami, Florida, for the first two years he resided in the United States. This statement contradicted the applicant's prior claim to have resided at an address in New York City from his entry into this country in November 1981 to June 1984 as listed on his Form I-687 application. In addition, the statement by the applicant that he lived in Miami, Florida, for the first two years of his residence in this country directly contradicts the testimony contained with the affidavits of [REDACTED] as well as the letter of Assane Sacare, all of who testified that the applicant was residing at an address in New York City during this period. Such a contradiction seriously diminishes the probative value of the testimony contained in these affidavits, as well as the applicant's claim of residence in the United States for the requisite period.

In response to the notice of intent to deny, the applicant submitted a photocopy of a court disposition and the following original documents:

- A postcard addressed to the applicant at [REDACTED] and postmarked Dakar, Senegal on July 17, 1981;

- A postcard addressed to the applicant at [REDACTED] and postmarked Dakar, Senegal on March 8, 1982; and,
- An envelope that is addressed to the applicant at [REDACTED] and postmarked Dakar, Senegal on November 25, 1986.

However, the applicant failed to provide any explanation as to how he was receiving mail at an address in the United States when he previously claimed he first entered and began residing in this country in November 1981 on the Form I-687 application. Furthermore, the applicant failed to provide any explanation as to how he was able to receive mail at a particular address in 1981, 1982 and 1986, when he claimed that he did not reside at that particular address until May of 1987 on the Form I-687 application. In addition, the applicant made no attempt to explain *why*, if he truly had these original and contemporaneous documents since at least 1986, he did not previously submit these with either his Form I-687 application or his LIFE Act application. Applicants were instructed to provide qualifying evidence *with* their applications and the applicant did include other supporting documentation with both the Form I-687 application and the LIFE Act application. These factors, as well as those cited above, raise serious questions regarding the authenticity and credibility of the applicant's claim of residence in this country and any and all documents submitted by him in support of that claim. Given these circumstances, it is concluded that documents provided by the applicant in rebuttal to the notice of intent to deny are of questionable probative value.

The applicant has submitted minimal contemporaneous documentation to establish presence in the U.S. from the time he claimed to have commenced residing in the United States. In light of the fact that the applicant claims to have continuously resided in the United States since at least November 1981, this inability to produce more than an absolute minimum of contemporaneous documentation to support his claim of residence raises serious questions regarding the credibility of the claim. The credibility of the applicant's claim of residence is further diminished by the discrepancies and contradictions between his purported address as listed on these contemporaneous documents and information provided by the applicant himself as well as that contained in the supporting affidavits and letters cited above.

Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I. & N. Dec. 582 (BIA 1988).

Given the minimal amount of contemporaneous documentation pertaining to this applicant, outright and direct contradictions and conflicts in testimony, and reliance upon supporting documentation with minimal probative value, it is concluded that he has failed to establish continuous residence in an unlawful status in the United States 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.