

**identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy**

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



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**



L2

FILE:



Office: BUFFALO

Date:

AUG 23 2005

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. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

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, Buffalo, New York, 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 asserts that the director, without basis, disregarded the evidence submitted in response to the Notice of Intent to Deny. Counsel states that the applicant has submitted sufficient documentation establishing continuous residence in the United States from prior to January 1, 1982 through May 4, 1988.

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 before January 1, 1982 through May 4, 1988, the applicant provided the following evidence throughout the application process:

- A letter from [REDACTED] who indicated that the applicant has been a member of Masjid At-Taqwa, a religious organization at 1266 Bedford Avenue, Brooklyn, New York since June 1986.
- An affidavit from [REDACTED] who attested to have known the applicant since 1986.
- A declaration from [REDACTED] who attested to the applicant's residence in the United States since November 6, 1986 to May 4, 1988. [REDACTED] asserted that he resided in Sudan during this period and kept in contact with the applicant by letters and the telephone.
- An affidavit from [REDACTED] who indicated that he first met the applicant in 1981 in New York City, and that during the requisite period he had telephonic conversations approximately once a month while the applicant was residing in Florida and New York City.

- A declaration from [REDACTED] who indicated that he first met the applicant in New York City in 1983. [REDACTED] asserted that he resided with the applicant in New York City for three months in 1987.
- An affidavit from [REDACTED] who indicated that he first met the applicant in Miami, Florida in 1983, and has remained in contact with the applicant since that time.
- A declaration from [REDACTED] a resident of St. Catherines, Ontario, Canada who indicated that he first met the applicant in "1981/82" in New York City and met once a month with other Sudanese residing in the area.

The declarations [REDACTED] and [REDACTED] have little probative value or evidentiary weight as the affiants failed to provide a telephone number or address and, therefore, the declarations are not amenable to verification by the Citizenship and Immigration Services. Further, the declaration from [REDACTED] cannot serve to establish the applicant's residence in the United States, as [REDACTED] was not residing in the United States during the period in question. The letter from [REDACTED] and the declaration from [REDACTED] contradict the applicant's claim on his Form I-687 application to have been residing in the State of Florida during this period.

Doubt cast on any aspect of the evidence may lead to a reevaluation of the reliability and sufficiency of the remaining evidence. It is incumbent upon an 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. See *Matter of Ho*, 19 I&N Dec. 582 (BIA).

The applicant claimed on his Form I-687 application residence and employment in the State of Florida since 1981 and 1985 respectively, however, no evidence such as attestations from individuals residing in Florida, a lease agreement, rent receipts or employment letters has been submitted to support the applicant's claimed residence and employment in Florida from 1981 to May 4, 1988.

Given the absence of any contemporaneous documentation, along with the applicant's reliance on affidavits, which do not meet basic standards of probative value, it is concluded that he has failed to establish continuous residence in the U.S. for the required period. Therefore, the applicant is ineligible for permanent resident status under section 1104 of the LIFE Act.

Beyond the decision of the director, it is noted that the record contains a copy of the applicant's Sudanese passport, which reveals that on May 4, 1986, the applicant was issued a B-2 non-immigrant visa valid until August 3, 1986, and that he lawfully entered the United States on May 9, 1986. As the appeal will be dismissed on the grounds discussed above, this issue need not be examined further.

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