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U.S. Citizenship
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Services

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JUN 10 2005

FILE:



Office: LOS ANGELES

Date:

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. 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, Los Angeles, California, 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, the applicant asserts that the director failed to consider the documentation he submitted in response to the Notice of Intent to Deny.

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 initially provided the following evidence:

- Several envelopes with the applicant's California addresses postmarked in 1983, 1984, 1985 and 1986.
- A video card issued in the applicant's name on April 10, 1986 from Stellar Video in Van Nuys, California.
- Two earnings statements issued in July 1986.
- An affidavit notarized April 5, 1990 from [REDACTED] owner of the Carpet Store in Sylmar, California who indicated the applicant has been in his employ as a carpet installer since 1985. Although [REDACTED] attested to the applicant's residence in Pacoima, California from 1981 to 1985, he asserted that he could competently testify to the applicant's physical presence in the United States since '1985.'
- An amended letter dated October 13, 2003 from [REDACTED] who indicated that he has known the applicant since 1982 and attested to the applicant's character.

- An affidavit notarized April 12, 1990 from [REDACTED] who indicated that the applicant has been residing at his residence, [REDACTED] since 1985.
- A 1985 wage and tax statement addressed to someone other than the applicant.
- An affidavit from [REDACTED] a brother who indicated that the applicant has been residing with him since [REDACTED]

At the time of his initial interview on November 8, 1990, the applicant, under oath, admitted in a sworn statement in his native language that he first entered the United States in April 1983. In a subsequent interview on January 1, 1995, the applicant recanted his earlier sworn statement and admitted in a new sworn statement that he first entered the United States in 1980.

At the time of his LIFE interview on October 10, 2003, the applicant informed the interviewing officer that he first entered the United States in 1981, and he worked part-time at Arco Floor since 1981 and at Carpet Store since 1982. Regarding his previous sworn statement in which he claimed 1983 as his first entry into the United States, the applicant asserted that he was nervous and was not quite sure what was being asked of him.

In response to a Request for Additional Evidence issued on October 17, 2003, the applicant provided the following evidence:

- An additional affidavit from [REDACTED] who attested to the applicant's presence in the United States since 1981.
- An affidavit from [REDACTED] who indicated that she has known the applicant since 1981, and the applicant often visited her family.
- An affidavit from [REDACTED] who indicated that he has known the applicant since 1970, and he and the applicant visit each other often.
- An affidavit from [REDACTED] who attested to the applicant's physical presence in the United States between 1981 to 1988. [REDACTED] asserted that he had been in contact with the applicant during that time.
- An affidavit from [REDACTED] a sister who indicated that the applicant resided with her at [REDACTED] California from 1981 to 1987.
- An affidavit from [REDACTED] who indicated that the applicant arrived in the United States in 1981 and he had remain in contact with the applicant since that time.
- An amended letter dated March 18, 2004 from [REDACTED] who claimed to have known the applicant since 1981 and would vouch for the applicant's character.

As conflicting statements have been provided, it is reasonable to expect an explanation from the affiant in order to resolve the contradictions. However, no statement from [REDACTED] has been submitted to resolve his

contradicting statement as to the date he first met the applicant. As such, [REDACTED] amended letters have little probative value or evidentiary weight. Regarding [REDACTED] affidavit which indicated the applicant's employment commenced in 1985, the applicant asserted, "the notary told him that the years of the life programs started from 1985 so that's why this letters say 1985." However, none of the additional letters from [REDACTED] resolve the applicant's contradicting employment dates. As such, the applicant's claim to have been employed [REDACTED] prior to 1985 lacks credibility and cannot be considered. It must be noted that the applicant claimed on his Form I-687 application and Form G-325A, Biographic Information that his employment at the Carpet Store commenced in 1985.

The applicant did claim on his Form I-687 application employment with [REDACTED] from 1981 to 1985, however, no evidence was provided to support his claim. Simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

It is noted that the applicant provided an employment letter from Arco Floor Covering in Canoga Park, California, which attested to the applicant's employment as a carpet installer since 1981. However, because the letter failed to list the title and the name of the individual whose signature appears on the letter, it has little probative value or evidentiary weight. Further, the letter does not conform to the basic requirements specified in 8 C.F.R. § 245a.2(d)(3)(i) as it is lacking the applicant's address at the time of employment, and a statement as to whether the employment information was taken from official company records.

Except for the affidavit from [REDACTED] the remaining affidavits are from affiants identifying themselves as family members of the applicant. Such individuals must be viewed as having an obvious interest in the outcome of proceedings, rather than as independent, objective and disinterested parties. Moreover, the affidavits from [REDACTED] contradict each other for which no explanation has been provided. In his initial affidavit [REDACTED] asserted that the applicant had resided with him since 1985 at [REDACTED] however, [REDACTED] claimed the applicant was residing with her from 1981 to 1987 at [REDACTED] California. In his affidavit [REDACTED] contradicts [REDACTED] affidavits as he claimed the applicant resided at [REDACTED] Pacoima, California from "January 1985 to January 1987" and a [REDACTED] from "January 1987 to January 1994."

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 1988).

Given the numerous credibility issues arising from the documentation provided by the applicant, it is determined that the applicant has not met his burden of proof. The applicant has not established, by a preponderance of the evidence, that he entered the United States before January 1, 1982 and resided in this country in an unlawful status continuously from before January 1, 1982 through May 4, 1988, as required under 1104(c)(2)(B)(i) of the LIFE Act and 8 C.F.R. § 245a.11(b). Given this, the applicant is ineligible for permanent resident status under section 1104 of the LIFE Act.

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