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U.S. Citizenship  
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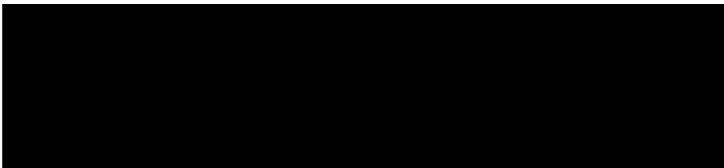
IN RE:

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, Houston, Texas, 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 from before January 1, 1982 through May 4, 1988.

On appeal, counsel asserts 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 notarized affidavit from MD Nigar Haider Chowdhury who indicated that the applicant resided with him in Los Angeles, California from December 1980 through December 1982.
- A notarized affidavit from [REDACTED] who indicated that the applicant resided with him in Brooklyn, New York from December 1981 through March 1983.
- Several envelopes postmarked to the applicant in 1981 through 1985, 1987 and 1988.
- A Bank of America money order receipt dated August 11, 1984.
- Several rent receipts issued during 1981, 1982, 1985 and 1986.
- 1981 and 1985 lease agreements that appear to have been altered.

- A notarized affidavit from [REDACTED] who attested to the applicant's residences in Los Angeles, California and Brooklyn, New York from December 1980. Mr. [REDACTED] based his knowledge on the fact that he had telephone contacts with the applicant.

Mr. [REDACTED] cannot attest to the applicant's residence in the United States from December 1980 as he did not arrive in the United States until 1985.

In a Notice of Intent to Deny issued on September 5, 2003, the director informed the applicant that there was conflicting information between his testimony, his application and documentation. The applicant was provided the opportunity to rebut the adverse information. In response, counsel addressed each discrepancy.

First, [REDACTED] indicated that the applicant resided with him in Los Angeles from December 1980 through December 1982, a period of time that the applicant was also residing in Brooklyn, New York with Mr. [REDACTED]. Counsel submitted a new statement from [REDACTED] who indicated the affidavit he executed in 1990 contained a typographical error. The applicant resided with him until December 1981 not 1982.

It must be noted that a rent receipt dated March 3, 1982 indicates that the applicant paid rent from March 1, 1982 to April 1, 1982 for residence at [REDACTED] Los Angeles, California. No explanation has been provided why the applicant would still pay rent three months later if he was no longer residing with Mr. [REDACTED] Los Angeles. In addition, the lease agreement commencing September 1981 has little probative value or evidentiary weight as it appears that the applicant's name as well as other names appears to have been entered onto the agreement at a later time.

Second, the director noted that the applicant indicated he was married in Dhaka, Bangladesh on October 3, 1981, but he failed to list this absence on his application forms or inform the interviewing officer. Counsel asserted that the applicant was married by proxy, which is allowed by Bangladesh law. Counsel provided a statement from the applicant's brother-in-law [REDACTED] who indicated that he was in Dhaka, Bangladesh on the day, October 3, 1981, the applicant married his sister by proxy. No documentary evidence has been provided, such as marriage license, copy of civil or religious marriage to corroborate the brother-in-law's statement that a proxy marriage occurred. Simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *See Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972).

Third, counsel asserted that the Form I-687 application was prepared by Reverend Joseph Johnson and contained several typographical errors. Counsel stated that the applicant's first entry was December 1980, his daughter's date of birth is August 29, 1986, his employment at Sunrise ended March 1981 and his employment at Unocal #7 commenced March 1983. Counsel submitted a copy of the Form I-687 application, which was corrected and initialed by the applicant.

The daughter's date of birth has little relevance in these proceedings as the applicant indicated in a sworn statement at the time of his interview that his spouse visited the United States in 1985 and stay until February 1986. In addition, the applicant's date of entry, October 1980 or December 1980 occurred well before the requisite January 1, 1982 statutory cut-off date for establishing entry into the United States. As such, any possible discrepancy regarding these dates can be deemed to be minor and not prejudicial to the applicant's claim. Counsel, however, has not provided any evidence to support the amended employment claims. The assertion of counsel does not constitute evidence. *Matter of Laureano*, 19 I&N Dec. 1, 3 (BIA 1983); *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). Further, the Form I-687 application does not reflect that anyone other than the applicant completed the application, as no

information is listed in items 48 and 50 of the application; items 48 and 50 of the application requests the name, address and signature of the person preparing the form.

Doubt cast on any aspect of an applicant's proof 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. *Matter of Ho*, 19 I. & N. Dec. 582 (BIA 1988).

The applicant has claimed that he has continuously resided in the United States since December 1980, nevertheless, he has only been able to provide Citizenship and Immigration and Naturalization Services with two affidavits in support of his residence for the requisite period. It must be emphasized that while the applicant listed places of employment during the years he claimed to have resided in the United States, he fails to provide any evidence to support his claim.

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.