

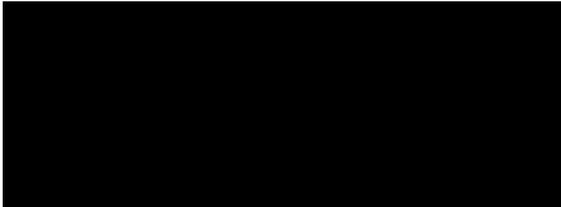
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U.S. Citizenship
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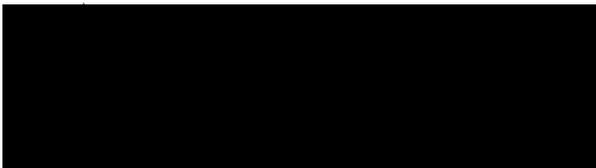
FILE: [REDACTED] Office: Newark

Date: MAY 04 2005

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

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the District Director, Newark, New Jersey, 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, counsel asserts that the applicant has submitted sufficient evidence to support his claim of continuous residence in this country since prior to January 1, 1982. Counsel contends that the probative value of such evidence overcomes any discrepancies relied upon by the district director to deny the LIFE Act application.

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 or about September 24, 1990. On the Form I-687 application, the applicant claimed that he first entered and began residing in this country after crossing the border from Mexico into the United States without inspection on December 25, 1981. At part #33 of the Form I-687 application where applicants were asked to list all residences in the United States from the date of their first entry, the applicant listed three separate addresses in Los Angeles, California as residences in this country during the requisite period. However, the applicant failed to submit any evidence to support his claim of residence.

The record shows that the applicant subsequently filed his LIFE Act application on May 29, 2003. In support of his claim of continuous residence in this country since prior to January 1, 1982, the applicant submitted four affidavits signed by two individuals and three original postmarked envelopes. The addresses attributed to the

applicant in the affidavits as well as those addresses listed on the envelopes tend to correspond with the listing of applicant's residences on the Form I-687 application. However, neither counsel nor the applicant made any attempt to explain *why*, if the applicant had resided unlawfully in the United States from December 25, 1981 to May 4, 1988 as claimed, he did not previously obtain evidence of such and submit this evidence with his Form I-687 application. Applicants were instructed to provide qualifying evidence *with* the Form I-687 applications in order to support and corroborate their claim of unlawful residence in this country for the requisite period. In this case, the applicant failed to submit any evidence to support his claim of residence in this country until well over twelve years had passed since the filing of the Form I-687 application. This factor raises serious questions regarding the authenticity and credibility of these supporting documents and, therefore, diminishes the probative value of such documents.

As noted above, on the Form I-687 application, the applicant claimed to have entered the United States on December 25, 1981, and to have resided at three separate addresses in Los Angeles, California from this date through to May 4, 1988. However, a review of the record revealed that the applicant previously submitted a Form I-589, Request for Asylum, to the Immigration and Naturalization Service, or the Service (now Citizenship and Immigration Services, or CIS) in July 1992. At part #12 of the Form I-589 asylum application where applicants were asked to list the date of their arrival in the United States, the applicant specified that he entered this country on March 11, 1991. Additionally, at part #26 of the Form I-589 asylum application where applicants were asked to list the date of their departure from their country of origin, the applicant listed February 2, 1991. Moreover, on the Form G-325A, Report of Biographic, that was included with the Form I-589 asylum application, the applicant specified that he resided in his native Pakistan from his birth in April 1967 up until February 1991.

The record shows that the applicant was subsequently interviewed regarding his request for asylum at the Service's Anaheim, California Asylum Office on October 4, 1994. The interviewing officer's notes reflect that the applicant provided testimony under oath describing events in Pakistan from 1984 to 1989 that led to his applying for asylum. The fact that the applicant himself acknowledged that he resided in Pakistan from his birth through February 2, 1991 completely undermines the credibility of his claim to have resided in the United States from prior to January 1, 1982 to May 4, 1988.

On appeal, counsel asserts that the three original postmarked envelopes are sufficient evidence of the applicant's residence in United States for the requisite period and cannot "...be controverted by statements on other applications." However, contrary to counsel's assertion, information provided by the applicant himself relating to his prior claim for asylum directly contradicts testimony contained within documentation that he has provided to support his claim of residence in this country for the period in question. This contradictory information negates the probative value of any supporting documentation provided in these current proceedings that attests to his residence in this country prior to February 1991.

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 outright and direct contradictions and conflicts in testimony, reliance upon supporting documentation with minimal probative value, and the applicant's admission that he resided in his native Pakistan until February 2, 1991, 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.