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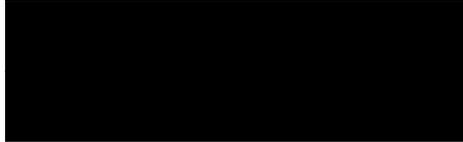
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

LC

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FILE:



Office: LOS ANGELES

Date: APR 20 2006

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, Chief
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 he has submitted sufficient documentation establishing continuous residence in the United States from prior to January 1, 1982 through May 4, 1988. The applicant states that he has no further documentation to submit due to his illegal status during the requisite period.

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).

The "preponderance of the evidence" standard requires that the evidence demonstrate that the applicant's claim is "probably true," where the determination of "truth" is made based on the factual circumstances of each individual case. *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm. 1989). In evaluating the evidence, *Matter of E-M-* also stated that "[t]ruth is to be determined not by the quantity of evidence alone but by its quality." *Id.* Thus, in adjudicating the application pursuant to the preponderance of the evidence standard, the director must examine each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true.

Even if the director has some doubt as to the truth, if the applicant submits relevant, probative, and credible evidence that leads the director to believe that the claim is "probably true" or "more likely than not," the applicant has satisfied the standard of proof. *See U.S. [REDACTED]* 480 U.S. 421 (1987) (defining "more likely than not" as a greater than 50 percent probability of something occurring). If the director can articulate a material doubt, it is appropriate for the director to either request additional evidence or, if that doubt leads the director to believe that the claim is probably not true, deny the application.

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).

Here, the submitted evidence is not relevant, probative, and credible. 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:

- Affidavits notarized March 19, 1990 and September 20, 2001 from a cousin, [REDACTED] who attested to the applicant's character and residence in Van Nuys,

California from 1981 to 2000. [REDACTED] asserted, "our families are in communication with each other periodically...."

- Affidavits notarized March 13, 1990 and July 27, 2001 from [REDACTED] Oxnard, California, who indicated that the applicant resided in his home [REDACTED] Oxnard, California from January 13, 1980 through November 28, 1981.

On June 18, 2004, the director sent the applicant a Notice of Intent to Deny, which advised the applicant that the affidavits submitted were vague and lacked corroborating evidence. The applicant was provided the opportunity to submit additional evidence of his continuous unlawful residence in the United States from January 1, 1982 through May 4, 1988. The applicant, however, failed to provide any additional evidence, either in response to this notice or on appeal.

As stated above, the inference to be drawn shall depend in part on the extent of the documentation. The applicant in this case asserts that he has resided continuously in the United States since January 1980 -- a period in excess of 24 years. Nevertheless, he has only been able to provide Citizenship and Immigration Services with affidavits from *two* affiants in support of his claim of residence during the requisite period. His cousin, [REDACTED] must be viewed as having a self-evident interest in the outcome of proceedings, rather than as an independent, objective and disinterested third party. The affidavits from [REDACTED] only serve to establish the applicant's entry into the United States prior to January 1, 1982. It should also be emphasized that the applicant has submitted no documentation to indicate where he was *employed* during his purported years of residence in the United States during the requisite period.

Given the absence of any contemporaneous documentation, along with the applicant's reliance on minimal documentation, it is concluded that he has failed to establish continuous residence and physical presence in the United States for the requisite period. Therefore, 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.