U.S. Department of Homeland Security
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Washington, DC 20529

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U.S. Citizenship
and Immigration
Services

L.L

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[redacted]

FILE: [redacted] Office: LOS ANGELES Date: APR 20 2006

IN RE: Applicant: [redacted]

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

APR2006_1422104

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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. v.* [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] Kansas, 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] of Oxnard, California, who indicated that the applicant resided in his home at [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] may 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.

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U.S. Citizenship and Immigration Services

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[redacted]

FILE: [redacted] Office: DALLAS Date: APR 20 2006
MSC 02 252 63396

IN RE: Applicant: [redacted]

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:

[redacted]

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, Dallas, 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. Counsel states that the companies where the applicant was employed are not longer in operation, and it is unreasonable to require the applicant to attempt to locate and secure updated letters for employment that occurred over 20 years ago. Counsel provides additional documentation along with copies of previously submitted documents in support of the appeal.

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. v. Cardozo-Fonseca*, 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 the following evidence:

- An employment letter dated May 13, 1990 president of Malone's Repair & Service in Fort Worth, Texas, who indicated that the applicant was in his employ as a janitor and an apprentice mechanic from June 1984 to December 1987.

- A letter dated May 3, 1990 from of Spinoza International Trading, Inc. in Fort Worth, Texas, who indicated that he has known the applicant since February 1981. that the applicant "has done at several opportunities upholstery repairs in several of my cars...."

- A notarized affidavit dated May 12, 1990 who indicated that he has first met the applicant through friends in the early part of January 1981. that he has remained friends with the applicant since that time.

The applicant also submitted a letter dated May 11, 1990 from Reverend Jose D. Fajarod of Gethsemane Presbyterian Church in Forth Worth, Texas, who indicated that the applicant had been an active member in the church from 1981 to 1985. This letter, however, has no probative value or evidentiary weight as it does not conform to the basic requirements specified in 8 C.F.R. § 245a.2(3)(v), such as it failed to state the address where the applicant resided during the membership period and include the organization's seal. Most importantly, the reverend did not sign the letter.

On March 24, 2003, the director issued a Form I-72, advising the applicant to submit additional evidence of his presence in the United States since before January 1, 1982 through May 4, 1988. The applicant was also advised to submit additional letters from and the Gethsemane Presbyterian Church.

The applicant, in response, asserted, "the people that wished to help me with the letters, are no longer here and it was not possible for me to obtain information to where they are now."

On appeal, counsel submits a letter dated January 14, 2003 from Director of Gethsemane Presbyterian Church, who indicated that the applicant was attending the International Academy, where English as a Second Language and the history and government of the United States are taught. This letter neither implies nor affirms the applicant's attendance during the requisite period. Therefore, the letter only serves to establish that the applicant was taking courses relating to the basic citizenship skills.

Counsel's argument regarding the sufficiency of the applicant's evidence of residence has been considered. The AAO, however, does not view the three affidavits discussed above as substantive enough to support a finding that the applicant entered and began residing in the United States before January 1, 1982, and resided continuously through May 4, 1988. The letter from be considered evidence of *continuous* employment or residence since 1981 as the affiant stated that "at several opportunities" the applicant did upholstery repairs to his vehicles. It is noted that the applicant did not claim employment with on his Form I-687 application. letter only serves to establish the applicant's residence from June 1984 to December 1987. claims to have known the applicant since 1981, but provides no address for the applicant. It is noted that the year claimed to have first met the applicant appears to have been altered to read 1981. The applicant has not provided any documentation to establish where he was residing during the period in question. The inability to produce contemporaneous documentation of residence raises questions regarding the credibility of the claim.

Given the absence of any contemporaneous documentation, along with the applicant's reliance on minimum documentation, it is concluded that he has failed to establish, by a preponderance of evidence, continuous

residence in the United States for the required 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.