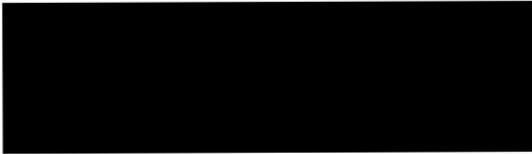


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FILE: [REDACTED] Office: Los Angeles Date: **AUG 16 2006**  
MSC 02 022 63738

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. 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, 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 (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, the applicant asserts that he has submitted sufficient evidence to support his claim of continuous residence in this country since prior to January 1, 1982. The applicant includes copies of previously submitted documents as well as new documentation in support of his claim of residence with his 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. *See* § 1104(c)(2)(B) of the LIFE Act and 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 under the provisions of section 212(a) of the Immigration and Nationality Act (Act), 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. *See* 8 C.F.R. § 245a.12(e).

Although the regulation at 8 C.F.R. § 245a.2(d)(3) provides an illustrative list of contemporaneous documents that an applicant may submit in support of his or her claim of continuous residence in the United States in an unlawful status since prior to January 1, 1982 to May 4, 1988, the submission of any other relevant document including affidavits is permitted pursuant to 8 C.F.R. § 245a.2(d)(3)(vi)(L).

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 petitioner 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 or petitioner 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 or petition.

At issue in this proceeding is whether the applicant has submitted sufficient credible evidence to 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. Here, the submitted evidence is not relevant, probative, and credible as it relates to that period from prior to January 1, 1982 to May 1983.

The applicant made a claim to class membership 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 (Act) on or about August 5, 1994. Although the applicant claimed that he last entered the United States in September 1981 at part #16 of the Form I-687 application, the applicant failed to list any addresses of residence in this country prior to November 1990 at part #33 of the Form I-687 application where applicants were asked to list all residences in the United States since the date of their first entry. In addition, at part #35 of the Form I-687 application where applicants were asked to list all absences from the United States since first entry, the applicant listed "NONE." The fact that the applicant failed to list a single address of residence in the United States prior to November 1990 at part #33 of the Form I-687 application tends to undermine the credibility of his claim of residence in the United States since prior to January 1, 1982.

The record shows that the applicant subsequently filed his LIFE Act application on October 22, 2001. In support of his claim of continuous residence in this country since prior to January 1, 1982, the applicant has submitted contemporaneous documents, affidavits, and letters of employment that tend to substantiate his claim of residence in the United States in that period from May 1983 to May, 4, 1988.

As noted above, on the Form I-687 application, the applicant claimed to have entered the United States in September 1981, and to have resided in this country since such date through May 4, 1988. However, a review of the electronic record revealed that the applicant possessed a separate Administrative file or A-file, [REDACTED] containing a Form I-589, Request for Asylum in the United States, that was submitted to the to the Immigration and Naturalization Service, or the Service (now Citizenship and Immigration Services, or CIS) on April 6, 1993. The contents of the A-file, [REDACTED], have been consolidated into the current record of proceedings. At part #4 of the Form I-589 asylum application where applicants were asked to list their address prior to coming to the United States, the applicant listed his street and number as [REDACTED] in Leon in the province of Guanajuato, Mexico. 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 arrived in this country on May 28, 1983 at San Ysidro, California. 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 at [REDACTED] in Leon

in the province of Guanajuato, Mexico from his birth in January 1960 up until May 1983. The fact that the applicant himself acknowledged that he resided in his native Mexico from his birth up until May 1983 completely undermines the credibility of his claim to have resided in the United States from prior to January 1, 1982 to May 1983.

The record shows that the applicant was subsequently interviewed regarding his request for asylum at the Service's Asylum Office in Anaheim, California on May 17, 1993. The interviewing officer's notes reflect that the applicant provided testimony under oath in which he claimed that he first entered the United States in 1978 and that he lived in Chicago, Illinois for two to three years before returning to Mexico. The applicant testified that he was subsequently married and did not return to the United States until 1983. While the applicant may very well have lived in Chicago, Illinois beginning in 1978 for some two to three years, the applicant admitted that he abandoned such residence and returned to Mexico in 1980 or 1981, before entering the United States again in May 1983.

The record shows that the applicant's Form I-589 asylum application was subsequently denied by the Service on April 12, 1994. The applicant was placed into deportation proceedings and he subsequently filed a Form I-256A, Application for Suspension of Deportation, on January 27, 1995. At part #1 of the Form I-256A application where applicants were asked to list the date they began their physical presence in the United States without subsequent absences, the applicant listed May 1983. Further, at part #6 of the Form I-256A application where applicants were asked to list the date and place of their first entry into the United States, the applicant listed May 1983 at San Ysidro, California.

The record demonstrates that the applicant and his wife appeared in deportation proceedings before the Immigration Judge in Los Angeles, California on July 25, 1995. The record contains a transcript of this hearing in which the applicant, his wife, and his brother all provided sworn testimony to the Immigration Judge reflecting that the applicant and his wife both entered and began their continuous residence in the United States in 1983.

On July 25, 2003, the district director issued a notice of intent to deny to the applicant informing him of CIS' intent to deny his LIFE Act application because of the fact that he failed to submit sufficient credible evidence of continuous unlawful residence in the United States for the period in question. The applicant was granted thirty days to respond to the notice and provide additional evidence in support of his claim of residence in the requisite period.

In response, the applicant submitted a statement in which he reiterated his claim of continuous residence in the United States since prior to January 1, 1982, the applicant provided copies of previously submitted documents, as well as photocopies of five affidavits, an employment letter, a letter of membership, three rent receipts, and six photographs. However, the applicant failed to make any declaration or submit any evidence that would overcome and reconcile his prior testimony that he did not continuously reside in this country from prior to January 1, 1982 to May 1983, when he departed Mexico and entered the United States at San Ysidro, California.

The district director determined that the applicant failed to submit sufficient evidence demonstrating his residence in the United States in an unlawful status from January 1, 1982 through May 4, 1988, and, therefore, denied the Form I-485 LIFE Act application on June 2, 2004.

On appeal, the applicant asserts that he has submitted sufficient evidence of his residence in United States for the requisite period. The applicant provides copies of previously submitted documents as well as a photocopied rent receipt and four letters in support of his residence in this country since prior to January 1, 1982. However, the applicant's testimony that he did not continuously reside in this country from prior to January 1, 1982 to May 1983 as provided in the Form I-589 asylum application and related documents, the Form I-256A suspension of deportation application, and before the Immigration Judge in deportation proceedings July 25, 1995 directly contradicts his claim of continuous residence in the United States since prior to January 1, 1982. Moreover, 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 May 1983.

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 own testimony that he resided in his native Mexico until May 1983, it is concluded that he has failed to establish continuous residence in an unlawful status in the United States for the entire period 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.