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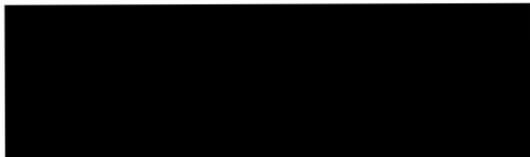
Applicant:



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, 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 argues that the director has failed to: 1) properly define a "preponderance of the evidence;" 2) conduct an examination of each piece of relevant evidence; and 3) challenge the credibility of the applicant or the authenticity of the documents with specific reasoning. Counsel asserts that the applicant has established by a preponderance of the evidence continuous residence in the United States from prior to January 1, 1982 through May 4, 1988. Counsel provides 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 provided the following evidence throughout the application process:

- Affidavits notarized July 11, 1990 and March 8, 2003 from [REDACTED] of Dallas, Texas, who indicated that the applicant was in his employ as a carpet installer from November 18, 1981 through September 7, 1985. [REDACTED] also attested to the applicant's Dallas residence at [REDACTED] November 18, 1981 through September 7, 1985.
- Affidavits notarized July 11, 1990, May 26, 2002 and February 11, 2003 from [REDACTED] of Farmers Branch, Texas, who indicated that the applicant had been in his employ as a carpet installer from October 25, 1985 through July 20, 1990.
- An affidavit notarized July 11, 1990 from [REDACTED] who indicated that the applicant resided in her Dallas home, [REDACTED] to February 1989.
- An affidavit notarized May 24, 2002 from [REDACTED] who indicated that he has known the applicant since March 1983. [REDACTED] asserted he has been a coworker of the applicant and has remained good friends since their initial contact.
- An affidavit notarized May 25, 2002 from [REDACTED] Texas, who indicated that he and the applicant resided in the same apartment building at the time the applicant first arrived in the United States in June 1980, and has remained good friends since that time.
- An affidavit notarized May 26, 2002 from [REDACTED] Texas, who indicated that he has known the applicant since 1980 and that he met the applicant "when he lived in the same apartment located at [REDACTED] and he lived with us." [REDACTED] asserted that he has remained in contact with the applicant since time.
- An affidavit notarized February 13, 2002 from [REDACTED] who indicated that he has been a friend of the applicant since 1981, and that he and the applicant "met at the apartment complex located at [REDACTED]" [REDACTED] asserted that he has remained friends with the applicant since that time.
- An affidavit notarized February 10, 2003 from [REDACTED] who indicated that she has been a friend of the applicant since 1980, and that she met the applicant "at the apartment complex at [REDACTED] where I lived in 1980 and he lived at [REDACTED]" [REDACTED] asserted that she has remained friends with the applicant since that time.
- A letter dated February 18, 2003 from [REDACTED] apartment manager of Gateway Apartment Homes in Dallas, Texas, who attested to the applicant's residence with his brother, [REDACTED] and [REDACTED] from August 15, 1980 through July 15, 1992. In a supplement letter [REDACTED] reaffirmed the veracity of her initial letter and asserted that the affiants "completed lease that was signed for twelve years."
- An affidavit notarized February 27, 2003 from [REDACTED] who attested to the applicant's employment with [REDACTED] from November 18, 1981 through September 7, 1985 and to his Dallas residence at [REDACTED] during that time.

The record contains an informal note indicating that several telephone calls attempts were made in effort to contact [REDACTED] however, there was no answer. This does not mean that the employment documentation is to be disregarded, rather such documentation must be considered in conjunction with the other supporting evidence, as well as the testimony of the applicant himself. The record contains no evidence to suggest that the director attempted to contact the applicant's other employer or send a letter to [REDACTED] in order to verify the authenticity of the employment documents submitted.

Nevertheless, the AAO does not view some of the affidavits discussed above as substantive enough to support a finding that the applicant continuously resided in the United States during the requisite period as contradicting information has been provided. Specifically:

1. [REDACTED] attested to the applicant's Dallas residence at [REDACTED] from November 18, 1981 through September 7, 1985, and [REDACTED] asserted that they met the applicant while the applicant resided at [REDACTED]. The applicant, however, claimed on his Form I-687 application to have commenced residing at this address in March 1989.
2. [REDACTED] attested to the applicant's residence with his relatives at [REDACTED] from August 15, 1980 through July 15, 1992. The applicant, however, claimed on his Form I-687 application to have commenced residing at this address in March 1989. In addition, no lease agreements were provided to corroborate [REDACTED] claim that the affiant's "completed lease . . . was signed for twelve years."
3. [REDACTED] asserted that he has met the applicant in 1980 when the applicant resided with him at [REDACTED]. The applicant, however, claimed on his Form I-687 application to have commenced residing at this address in March 1989. In addition, the letter from [REDACTED] indicated that the applicant resided with someone other than [REDACTED].

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 regulation at 8 C.F.R. § 245a.12(e) provides that "[a]n alien applying for adjustment of status under [section 1104 of the LIFE Act] has the burden of proving by a preponderance of the evidence that he or she has resided in the United States for the requisite periods." Preponderance of the evidence is defined as "evidence which as a whole shows that the fact sought to be proved is more probable than not." Black's Law Dictionary 1064 (5th ed. 1979). See *Matter of Lemhammad*, 20 I&N Dec. 316, 320, Note 5 (BIA 1991). Given the contradicting information, absence of a plausible explanation along with the absence of contemporaneous documentation, the AAO determines 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 since that time through May 4, 1988, as required under 1104(c)(2)(B)(i) of the LIFE Act and 8 C.F.R. § 245a.11(b).

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.