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U.S. Citizenship  
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FILE:

MSC 02 095 60362

Office: LOS ANGELES

Date: DEC 22 2006

IN RE:

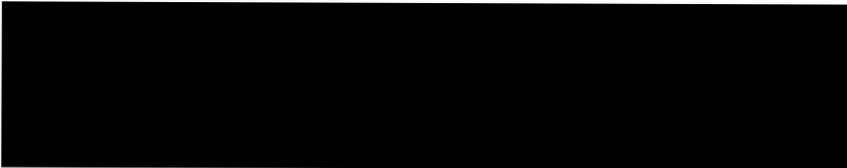
Applicant:



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:



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 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.

The applicant asserts on appeal that the adjudicating officer misread his evidence. The applicant submits additional documentation 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. Section 1104(c)(2)(B) of the LIFE Act; 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 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.

Although Citizenship and Immigration Services (CIS) 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. 8 C.F.R. § 245a.2(d)(3)(vi)(L).

The applicant stated on a form to determine class membership, which he signed under penalty of perjury on September 25, 1990, that he first entered the United States in an illegal status in December 1981. On his Form I-687, Application for Status as a Temporary Resident, which he also signed under penalty of perjury on September 25, 1990, the applicant stated that, he was self-employed, working in yard and garden maintenance from January 1982 to December 1987, and that he worked as a laborer for D&G Products from January 1988 until the date of his Form I-687 application.

In an attempt to establish continuous unlawful residence since before January 1, 1982 through May 4, 1988, the applicant submitted the following evidence:

1. A September 24, 1990 affidavit from [REDACTED] in which he stated that the applicant "always mentioned to me that he is here since 1981" and that he was neighbors with the applicant in 1985.
2. A September 24, 1990 affidavit from [REDACTED] in which he stated that he and the applicant did yard work together in 1981, and that following the applicant's move to [REDACTED], where the applicant "also used to live for a while we see each other often."
3. An October 13, 1990 affidavit from [REDACTED] in which he stated that the applicant worked for him on a part-time basis doing general maintenance work from January 1982 to December 1984. The applicant did not indicate on his Form I-687 application that he worked for [REDACTED] or that he was engaged in work other than as a self-employed garden and yard maintenance person from 1982 through 1984. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the applicant submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).
4. An October 9, 1990 affidavit from [REDACTED] in which he stated that he and the applicant shared living quarters at [REDACTED] in Norwalk, California from December 1981 to December 1984, and that the applicant contributed five percent of the total living expenses. However, the applicant submitted no corroborative evidence that either he or [REDACTED] lived at the stated address during the relevant time frame.
5. An October 19, 1990 affidavit from [REDACTED] in which he stated that he and the applicant shared living quarters at [REDACTED] in Pomona, California from January 1985 to December 1987, and that the applicant contributed 15% to the household expenses. The applicant submitted no documentary evidence that he or [REDACTED] lived at this address during the stated time period. Further, we note that on his September 24, 1990 affidavit, [REDACTED] stated that he and the applicant saw "each other often" but did not indicate that they shared living quarters.
6. A copy of a 1988 Form W-2, Wage and Tax Statement, issued by D&G Products in Pomona, California, and a copy of his Form 1040A, U.S. Individual Income Tax Report.

In response to a request for evidence, Form I-72, dated September 24, 2003, the applicant submitted the following additional documentation:

7. A September 30, 2003 affidavit from [REDACTED] in which he stated that he has known the applicant since December 1981 when the applicant was in his employ as a handyman. The applicant did not claim any employment during 1981 on his Form I-687 application, but stated that he was self-employed in yard and garden maintenance beginning in 1982. The applicant submitted no additional information regarding his employment with [REDACTED].
8. An October 3, 2003 affidavit from [REDACTED] in which he stated that he has known the applicant since 1981, when they worked together in construction. The applicant did not allege that he had had been employed in construction work at any time during the qualifying period.

9. A September 5, 2003 affidavit from [REDACTED] in which she stated that she has known the applicant since 1982. [REDACTED] stated that she works with the applicant's wife and that she and her husband are good friends with the applicant. [REDACTED] provided no details regarding her initial acquaintance with the applicant.
10. A September 5, 2003 affidavit from [REDACTED], in which she stated that she has known the applicant since 1982. [REDACTED] stated that she works with the applicant's wife. [REDACTED] provided no details about her initial acquaintance with the applicant.
11. A September 5, 2003 affidavit from [REDACTED] in which she stated that she has known the applicant since 1982. [REDACTED] stated that her daughter, [REDACTED] is a close friend of the applicant and his wife. [REDACTED] did not provide any details regarding her initial acquaintance with the applicant.
12. A September 15, 2003 affidavit from [REDACTED], in which she stated that she has known the applicant since 1985 and that she met him through her husband.
13. An October 3, 2003 affidavit from [REDACTED], in which he stated that he has known the applicant since 1986, when they worked together on landscaping contracts. [REDACTED] also stated that the applicant had been a family friend since 1981 but did not state that this friendship was established and maintained in the United States.
14. A September 19, 2003 affidavit from [REDACTED] in which she stated that she has known the applicant since 1985 when they met at the beauty salon where she served as his hair stylist.

In response to the director's Notice of Intent to Deny dated September 13, 2004, the applicant submitted 11 affidavits, all of which indicated that they were subscribed and sworn to before notary public [REDACTED] on October 13, 2004. Further, each of the affidavits contains this paragraph, regardless of when the affiant claims to have originally met the applicant.

I Could testify that [the applicant] was living in the U.S. between 1982 and 1988 because since we meet in 1982 we been in touch we get together to watch boxing fights, sometimes we went over his house, other times he came over our house. We also meet when their were birthdays parties from mutual friends, we run into each other since we share the same friends. On several occasions we went on trips together, we went t Las Vegas a few times and we consistently visit each other. I do not have photographs with him I know I took some but I lost them somewhere. [Spelling, punctuation and typographical errors are as shown in the original.]

The affidavits submitted by the applicant are from:

1. [REDACTED] who stated that he met the applicant in December 1981 when friends introduced them. We note that in his earlier statement, [REDACTED] stated that he and the applicant met when they worked in construction together.
2. [REDACTED], who stated that he met the applicant in February 1982 through mutual friends.

3. [REDACTED], who stated that she met the applicant in February 1982 when mutual friends introduced them.
4. [REDACTED] who stated that he met the applicant in December 1982.
5. [REDACTED] who stated that she met the applicant in 1982 when mutual friends introduced them.
6. [REDACTED], who stated that she was introduced to the applicant in December 1982 by her daughter and her daughter's friends.
7. [REDACTED], who stated that he met the applicant in December 1983 when friends introduced him to the applicant.
8. [REDACTED] who stated that she met the applicant through friends in December 1985 when she was in the 9<sup>th</sup> grade in school, and that the applicant told her that he first entered the United States in 1981. This statement conflicts with [REDACTED] 2003 affidavit in which she stated that she met the applicant in a beauty salon where she served as his hair stylist. We further note that [REDACTED] was born in 1965, which makes it highly unlikely that she was in her 9<sup>th</sup> year in school in 1985. See *Matter of Ho*, 19 I&N Dec. at 591.
9. [REDACTED] who stated that she met the applicant in December 1985 when friends introduced them. [REDACTED] further stated that that she and the applicant have kept in touch "since we meet [sic] in 1982." We note that in her September 15, 2003 affidavit, [REDACTED] stated that she met the applicant through her husband. *Id.*
10. [REDACTED], who stated that he met the applicant in December 1985 when friends introduced them.
11. [REDACTED] who stated that she met the applicant in December 1985.

As many of the affidavits contain inconsistencies within the document itself, others conflict with statements previously given, and all are signed under oath before the same notary without regard to the inaccuracies contained within them, they lack sufficient indicia of trustworthiness and are deemed unreliable and therefore not probative of the applicant's presence and residency in the United States during the qualifying period.

On appeal, the applicant submits CSS/LULAC and LIFE Act Adjustment questionnaires purportedly completed by the affiants discussed above as well as from others, including residents of Mexico stating that the applicant made his farewells in December 1981 before leaving for the United States. We note that most of these questionnaires, including all from those other than affiants previously discussed, are not signed by the individual purporting to complete the questionnaire nor are they otherwise witnessed in some manner. These statements, without more, do not constitute competent objective evidence that explains or reconciles the inconsistencies in the record. See *Matter of Ho*, 19 I&N Dec. at 591. The applicant submitted no contemporaneous documentation of his presence in the United States prior to 1988.

Given the absence of any contemporaneous documentation and the inconsistencies in the affidavits and statements submitted, it is concluded that the applicant has failed to establish continuous residence in the U.S. for the required period.

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