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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] Office: DALLAS Date: **JUL 13 2006**
MSC 02 225 63040

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

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 concluded that the applicant had not established that he resided in the United States in a continuous unlawful status from before January 1, 1982 through May 4, 1988, as required by section 1104(c)(2)(B) of the LIFE Act.

On appeal, the applicant asserts that he has made every effort to comply with the established requirements for processing his application for adjustment of status under the LIFE Act, but that Citizenship and Immigration Services (CIS) is asking for documentation from more than 20 years past. The applicant provides additional documentation in support of 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, and that he or she was physically presence in the United States continuously from November 6, 1986 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 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 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).

On a May 1991 written questionnaire to determined eligibility for class membership, the applicant claimed to have entered the United States without inspection in December 1981. 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 March 31, 2003 letter from [REDACTED] president and chief executive officer of [REDACTED] International, in which he stated that the applicant "has been known to reside in the United States since 1980." Mr. [REDACTED] does not state the source of his knowledge of the applicant's residency. Further, his statement as to the date of the applicant's residency in the United States conflicts with that of the applicant's. 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).
2. A March 8, 2004 sworn statement from [REDACTED] in which he stated that he has known the applicant since "about" 1983, when they worked for the same company.
3. A July 2, 2004 sworn statement from [REDACTED] in which she stated that she met the applicant in Brownsville, Texas in January 1980 through her brother. Ms. [REDACTED] statement conflicts with the applicant's statement that he first arrived in the United States in December 1981. *Id.*
4. A July 2, 2004 sworn affidavit from [REDACTED] who stated that he has known the applicant for 25 years and that they met in Laredo, Mexico through friends. Mr. [REDACTED] stated that he "welcomed" the applicant in his home in Sebastian, Texas in 1983.
5. A February 27, 2003 sworn statement from [REDACTED] who stated that he employed the applicant as a "brick man helper" from November 15, 1985 to September 1988. This statement conflicts with the applicant's statement on the Form I-687, Application for **Status as a Temporary Resident**, signed on May 1, 1991, in which he stated that he had worked for [REDACTED] since December 1981.
6. An undated letter from [REDACTED] of [REDACTED] who stated that the applicant has been a faithful employee for "many years." In another undated letter, Mr. [REDACTED] identifies himself as the general manager of [REDACTED] and stated that the applicant has been with the company for "almost nine years." Mr. [REDACTED] letters do not provide information as to the dates of the applicant's employment and therefore do not provide evidence of his residency and presence in the United States during the required periods.
7. An April 5, 2004 sworn statement from [REDACTED] in which she stated that she "was the owner of [REDACTED] and [REDACTED] Garage apartment up until 1997." Ms. [REDACTED] stated that the applicant rented a garage apartment from her from December 1981 to October 1982. Ms. [REDACTED] did not indicate the business records or any other source that she relied upon to verify her information regarding the applicant's residency, and the applicant submitted no other evidence to corroborate her statement.

On appeal, the applicant submitted a statement in which he, for the first time, alleges that he first entered the United States illegally in 1980. As this statement is contradicts all other statements by the applicant in the record, it lacks credibility. The applicant submitted no contemporaneous documentation to support his claim of residence any presence in the United States at any time during the qualifying time. 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 visa application. *Matter of Ho*.

Given the absence of any contemporaneous documentation and the inconsistencies in the record, it is concluded that he 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.