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

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[redacted]

FILE: [redacted] Office: Los Angeles Date: MAR 29 2006
MSC 02 029 61438

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. 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.

Mari Johnson

Robert P. Wiemann, Director
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 director concluded the applicant had not established that he had continuously and unlawfully resided in the United States during the entire qualifying period from January 1, 1982 through May 4, 1988 and, therefore, denied the application.

An applicant for permanent resident status under section 1104 of the LIFE Act must establish that he or she entered the United States before January 1, 1982 and resided in this country continuously in an unlawful status from before January 1, 1982 through May 4, 1988. *See* section 1104(c)(2)(B)(i) of the LIFE Act and the regulations at 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. 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.

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).

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).

With his LIFE application, the applicant submitted a sworn statement dated October 10, 2001, stating that he came to the United States in December 1981. To establish his continuous residence in the United States during the qualifying period, the applicant submitted nineteen letters or affidavits; however, he submitted no other types of contemporaneous documentation such as school or medical treatment records, employment

records or affidavits, or other corroborative documentary evidence. While counsel points out that documentation from 20 years ago may not be available, it is noted that the applicant also did not submit contemporaneous documents in 1990, when he applied for class membership.

The affidavits submitted are vague and without sufficient detail to determine the accuracy of the information provided. With two exceptions, none of the affiants or letter writers indicate when in a particular year he or she became acquainted with the applicant, under what circumstances, the details of their meeting or the basis of his or her knowledge of the beneficiary. Many of the letters simply state that the individual has "hand knowledge" of the applicant, and has known him since a given year. Representative examples are the affidavits of and , who, after providing their own addresses, stated:

> I have hand [sic] knowledge of [the applicant] since 1981,
>
> That I have been aware of his/her continuous residency in the U.S. since the above date, and to my knowledge [he] has never had any problems with the law, this person has always been gainfully employed.

Two exceptions to these affidavits are those submitted by and

who lists his occupation as "labor," stated in his affidavit of October 10, 2001 that the applicant resided with him in Los Angeles, California beginning on January 1, 1981 and that he "covered" the applicant's living expenses. s affidavit lacks credibility, however, as it is inconsistent with the date of December 1981 that the applicant claims to have first entered the United States. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

stated in his letter of January 29, 2001 that he recognizes the applicant and can state that he has intermittently attended services at the church since 1985. While we find statement is credible, it does not establish the applicant's residence earlier than 1985.

Furthermore, the applicant did not indicate on his application that he was employed prior to 1997, and submitted no evidence of employment during any time frame.

The applicant has, therefore, failed to establish that he resided in continuous unlawful status in the United States from before January 1, 1982 through May 4, 1988, as required under section 1104(c)(2)(B) of the LIFE Act. Given this, he 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.