



U.S. Citizenship
and Immigration
Services

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FILE:

[Redacted]
MSC 02 234 60051

Office: DALLAS

Date: MAY 08 2006

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 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.

On appeal, the applicant claims that on or about April 18, 2004, he gave "a U.S. Postal delivery person, who was on the street adjacent to the U.S. Immigration Bldg. a stamped envelope containing my affidavit providing evidence of my presence in the U.S.A. from 1981 through 1988." The applicant asserts that either the individual failed to deliver the envelope to the post office or it was lost in the mail. The applicant provides 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. 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:

- An affidavit notarized June 8, 1990 from [REDACTED] of Dallas, Texas, who attested to the applicant's residence at [REDACTED] Dallas, Texas from September 1985 to December 1988.
- A letter dated May 24, 1990 purportedly from [REDACTED] vice-president of [REDACTED] in Dallas, Texas, which indicated that the applicant was employed as a truck driver from June 4, 1984 through December 19, 1986.
- An affidavit notarized June 8, 1990 from [REDACTED] of Dallas, Texas, who indicated that the applicant resided with him from October 1980 to August 1985. [REDACTED] indicated that the applicant shared expenses.
- A letter dated May 3, 1990 from [REDACTED] accounting supervisor of [REDACTED] in Grand Prairie, Texas, who indicated that the applicant was an employee of the company from January 5, 1986 to December 20, 1988.
- A letter from [REDACTED] bookkeeper of [REDACTED] in Dallas, Texas, who indicated that the applicant was employed as a dishwasher from October 27, 1980 to May 25, 1984.
- An affidavit notarized May 15, 2002 from [REDACTED] of Dallas, Texas, who indicated that he has known the applicant since 1980 and attested to his character.
- Affidavits notarized May 15, 2002 from [REDACTED] who stated that she was an assistant manager to [REDACTED] manager of [REDACTED] at [REDACTED] Dallas, Texas. [REDACTED] indicated that the applicant resided at [REDACTED] from 1988 to 1991 and at [REDACTED] since 1991. [REDACTED] also indicated that the applicant was employed in the capacity of a "partial independent maintenance contractor" since 1988.
- Affidavits notarized May 17, 2002 from [REDACTED] and [REDACTED] of Dallas, Texas, who indicated that they have known the applicant since childhood, and attested to the applicant's residence in Texas since August 1980.

At the time of the applicant's initial interview on July 20, 1990, the applicant, admitted under oath in a sworn statement that he never worked for [REDACTED]. The applicant indicated that the employment letter was false and was given to him by the notary public, [REDACTED] who prepared his Form I-687 application.

On March 19, 2003, the director issued a Form I-72, advising the applicant to submit evidence of his residence in the United States during the requisite period. The record, however, contains no response from the applicant.

The director issued a Notice of Intent to Deny dated March 17, 2004, advising the applicant of his failure to respond to the Form I-72, and that the "work letters" submitted were not credible. The applicant, in response, submitted an affidavit notarized April 17, 2004 from [REDACTED] of Red Oak, Texas, who indicated that she has known the applicant since December 1981 and attested to his character.

It is noted that the employment letters from [REDACTED] and [REDACTED] have a post-it note with the word "fraud" written on it. While the employment letter from [REDACTED] has been found to be fraudulent, it does not preclude

the possibility that the remaining employment letters *may be* legitimate. The record contains no evidence to suggest that the director attempted to contact the former employers to verify the authenticity of the employment documents submitted.

On appeal, the applicant submits a photocopy of an additional affidavit from [REDACTED] of Red Oak, Texas, who indicated that she has known the applicant since December 1981 and attested to his character. The applicant also submits a photocopy of an affidavit notarized April 19, 2004 from a former landlord, [REDACTED] Texas, who attested to the applicant's residence at [REDACTED] Dallas, Texas from 1981 to 1988. [REDACTED] indicated that the applicant did contract labor for him at several of the apartment buildings he owned during this time period.

The applicant has presented contradicting statements for which no explanation has been provided. Specifically:

1. The applicant claimed on his Form I-687 application that he resided at [REDACTED] and [REDACTED] from October 1980 to August 1985 and September 1985 to December 1988, respectively. [REDACTED] attested to applicant's residence at [REDACTED] from September 1985 to December 1988. However, the affidavit from [REDACTED] indicates that the applicant did not commence residing at the [REDACTED] until 1988.
2. The applicant did not claim on his Form I-687 application residence at [REDACTED] Dallas, Texas or employment with [REDACTED] during the requisite period.

These factors along with the fact that the applicant presented a fraudulent document and the failure of [REDACTED] provide an address where he and the applicant resided raises questions about the authenticity of the documents the applicant has presented throughout the application process.

Doubt cast on any aspect of the evidence 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. See *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988).

Given the contradicting statements, absence of a plausible explanation along with the submission of the fraudulent document, it is determined 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 from before January 1, 1982 through May 4, 1988, as required under 1104(c)(2)(B)(i) of the LIFE Act and 8 C.F.R. § 245a.11(b). Given this, the applicant 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.