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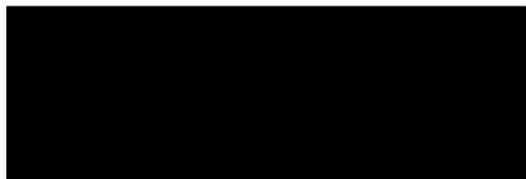
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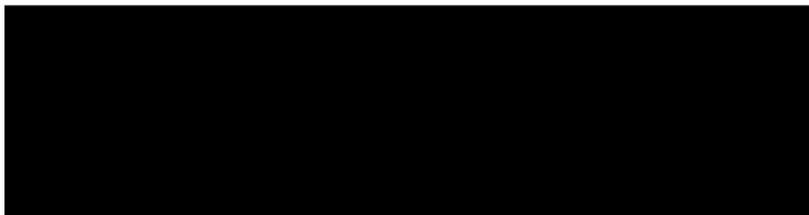


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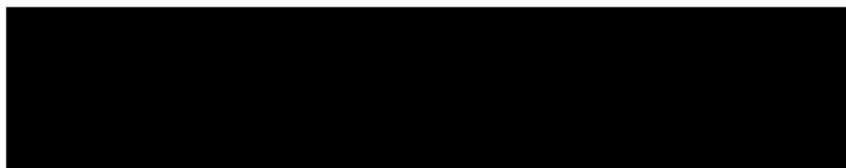
Date: SEP 11 2006

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 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, counsel asserts that the director failed to consider all of the documents supporting the applicant's claim, and that the director's conclusion that the lease agreements submitted by the applicant were altered is not supported by findings from a forensic expert.

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 claimed to have first entered the United States in an unlawful status in 1981. On his affidavit to determine class membership, which he signed under penalty of perjury on April 12, 1990, the applicant claimed to have first entered the United States in January 1981. However, during the course of his LIFE Act interview, the applicant claimed that he entered the United States in December 1981, and that the January

1981 date on his class membership affidavit was in error. This admission during the course of the interview brings into question other information provided by the applicant on his Form I-687, Application for Status as a Temporary Resident, particularly the applicant's claim of having worked as a swap-meet helper from June 1981 until December 1982, having attended Saint George Coptic Church from April 1981, and having lived at [REDACTED] in Long Beach, California from January 1981. 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).

The applicant also stated on his class membership affidavit that he departed the United States in April 1985 and returned in May 1985 pursuant to a B-2 nonimmigrant visitor's visa. The applicant claimed he violated his status as a visitor by working. On his Form I-687 application the applicant also stated that he was absent from the United States from June to July 1983. However, during the course of his LIFE Act interview, the applicant denied leaving the United States prior to 1985.

The applicant stated on his Form I-687 application that he lived at the following addresses during the qualifying period:

- [REDACTED] Long Beach, California from January 1981 to March 1985
- [REDACTED] California from April to May 1985
- [REDACTED] Long Beach, California from June 1985 to August 1986
- [REDACTED] Long Beach, California from September 1986 to September 1987
- [REDACTED] Long Beach, California from October 1987 until the date of the Form I-687

The record reflects that the applicant was issued a B-2 visa in Cairo, Egypt on March 20, 1985, valid for one entry until June 19, 1985, and that he entered the United States pursuant to that visa on May 24, 1985. The record also reflects that the departure date for the visa was subsequently approved for extension to December 18, 1985.

The applicant submitted sufficient evidence to establish his physical presence in the United States beginning in May 1985 and continuous residency in the United States beginning in December 1985. Evidence of the applicant's presence and residency prior to those periods, however, are more problematic and have not been established by a preponderance of the evidence.

In an attempt to establish continuous unlawful residence since before January 1, 1982 to December 1985, the applicant provided the following documentation:

1. An April 12, 1990 sworn affidavit from [REDACTED] in which he stated that, from his personal knowledge, the applicant lived at the following addresses: from April 1980 to May 1985 – [REDACTED] in Cerritos, California; from June 1985 to August 1986 at [REDACTED] in Long Beach, California; from September 1986 to September 1987 at [REDACTED] in Long Beach; and from October 1987 until the date of the affidavit at [REDACTED] in Long Beach. We note that

the affiant places the applicant in the United States a full year before the applicant alleged that he arrived. Further, the affiant alleged that the applicant lived on [REDACTED] for five years as opposed to the one month that the applicant claimed on his Form I-687 application. The applicant submitted no independent, objective evidence to resolve this inconsistency. *Matter of Ho*, 19 I&N Dec. at 591.

2. An August 30, 2004 letter from [REDACTED] who stated that he met the applicant “around” Christmas of 1981, when a priest brought the applicant to his office. Mr. [REDACTED] further stated that he introduced the applicant to the “father of his confession” around Easter of 1982.
3. A copy of a lease agreement between the applicant and [REDACTED]. The parties purport to have entered into the agreement on December 15, 1981 with an effective lease date of January 1, 1982. The record also contains a lease agreement between the applicant’s brother and Mr. [REDACTED] which indicates a lease agreement entered into and effective on September 1, 1987. The 1987 lease agreement lists the applicant as one of the expected occupants of the leased premises. In her Notice of Intent to Deny (NOID) dated August 12, 2004, the director noted that the 1981 lease agreement was an altered copy of the 1987 lease agreement. The applicant did not address this issue in his response to the NOID.

On appeal, counsel states:

[T]he Service makes the baseless allegation that the rental agreements for 1981 and 1987 are “exact copies” and the baseless conclusion that this was done “to produce a copy for 1981.” Assuming – as the Service has done – that such copying (by the landlord) did occur, it is the 1981 form that would have been copied in order to be re-used in 1987, and not the other way; as the Service erroneously concluded. Furthermore, the Service failed to provide any justification (like forensic expertise findings) for their conclusions regarding the genuiness [sic] of the documents.

We do not read the director’s notice as assuming, as counsel asserts, that the landlord copied the lease agreement, but rather that the applicant altered the 1987 document in an effort to document that he lived at this address in 1981. Further, it does not require a forensics expert to detect the similarities in the two documents or the alterations that have occurred. Specifically, the copy of the purported 1981 lease agreement clearly shows the top of the [REDACTED] and the loops of the [REDACTED] of the applicant’s name that were on the 1987 agreement but that were not erased in producing the 1981 document.

On May 31, 2006, in a request for evidence (RFE), the AAO requested, pursuant to 8 C.F.R. § 103.2(b)(5), that the applicant provide an original of the rental agreements for 1981 and 1987. In response, counsel stated that the applicant had submitted evidence that his vehicle was stolen in 2000 with these documents inside, and that the owner of the property had sold the house in 1997 and that his present location is unknown.

The non-existence or other unavailability of required evidence creates a presumption of ineligibility. 8 C.F.R. § 103.2(b)(2)(i). Failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. 8 C.F.R. § 103.2(b)(14). If CIS fails to believe that a fact stated in the application is true, CIS may reject that fact. Section 204(b) of the Act, 8 U.S.C. § 1154(b); *see also Anetekhai v. I.N.S.*, 876 F.2d 1218, 1220 (5th Cir.1989); *Lu-Ann Bakery Shop, Inc. v. Nelson*, 705 F. Supp. 7, 10 (D.D.C.1988); *Systronics Corp. v. INS*, 153 F. Supp. 2d 7, 15 (D.D.C. 2001).

Although the applicant's brother provided a statement in which he purports to have discussed with the landlord the irony of renting the exact house that his brother had rented earlier, the applicant submitted no independent or objective evidence to resolve this inconsistency in the record and no other explanation as to the presence of the markings in the 1981 document has been presented.

4. Copies of checks from the applicant made payable to [REDACTED] with a memo that they were for rent for the periods April through August 1982. We note that these checks do not indicate that they were ever presented to the bank for payment.
5. Copies of receipts reflecting that money was received from [REDACTED] and [REDACTED] for rent for the following periods: April 4, 1982 for February rent; October 21, 1982 for August rent; March 24, 1982 (the applicable month's rent is illegible); June 18, 1982 for May rent; March 9, 1984 for January rent; and November 1, 1984 for October rent. We note that the receipt for the August rent is dated October 21, 1982; however, the copy of the check submitted by the applicant for August's rent is dated August 1, 1982. Further, as noted by the director in her Notice of Intent to Deny (NOID) dated August 12, 2004, the year on some of the rental receipts appear to have been altered. In response, the applicant stated:

The receipts submitted are genuine and the "2" in 1982 was not compromised. In both receipts and on the "5" where it says "for" the 1982 appears on both receipts as perfect as humanly possible.

On appeal, counsel states that the director "acknowledges that it only 'seems' that the rental receipts for 1982 have been altered, a standard that would hardly be sufficient to question applicant's 'preponderance of the evidence.'"

In its May 31, 2006 request for evidence, the AAO requested originals of all rental receipts submitted by the applicant for the qualifying period. In response, the applicant submitted the receipts dated April 4 and October 21 1982, and March 9 and November 1 1984. We note that each of the receipts submitted by the applicant in response to the AAO's request has been worn and damaged in such a way that the dates of the receipts are now illegible. It is clear that these original documents were damaged after the copies were made and submitted to CIS in support of the applicant's claim. This appears to be a deliberate attempt to obliterate or disguise the information contained on the documents and mislead the AAO. This also raises serious questions regarding the applicant's credibility and that of the documents submitted in support of his application. Doubt cast on any aspect

of the applicant's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa application. *Matter of Ho*, 19 I&N Dec. at 591. We note that the years added to the rental period in the "For" block appear to have been added after the receipts were written. The applicant did not submit the requested originals for March and June 1982.

6. A June 17, 1982 uncashed check made payable to \_\_\_\_\_ by \_\_\_\_\_
7. An undated letter from \_\_\_\_\_, who stated that he has known the applicant since December 1981. Mr. \_\_\_\_\_ provided no details about his initial acquaintance with the applicant and did not indicate that he was present in the United States in 1981. In a statement dated September 22, 2004, Mr. \_\_\_\_\_ stated that he visited the applicant at his home at \_\_\_\_\_ after meeting him in December 1981.
8. An August 18, 2004 letter from \_\_\_\_\_ in which he stated that he has known the applicant since April 1982. Mr. \_\_\_\_\_ stated that the applicant is a good friend; however, he provided no details of their initial acquaintance and whether the applicant was present in the United States during the required time frame. In a September 22, 2004 handwritten addendum to his statement submitted on appeal, Mr. \_\_\_\_\_ stated that he "vividly" remembers visiting the applicant at his home at \_\_\_\_\_ when he met him in 1982.
9. An August 31, 2004 letter from \_\_\_\_\_ who stated that she has known the applicant since 1982, and that he has been a friend of hers since that date. Ms. \_\_\_\_\_ did not indicate the circumstances surrounding her initial acquaintance with the applicant. Further, although Ms. \_\_\_\_\_ stated that she was an American citizen, she did not indicate that she was present and living in the United States in 1982 or that her initial acquaintance with the applicant occurred in the United States.
10. An August 22, 1985 receipt for a State of California identification card. The receipt lists the applicant's address as \_\_\_\_\_ however, according to the applicant's Form I-687 application, he was living at \_\_\_\_\_ during this period. *Id.*
11. A December 12, 1985 receipt for a California driver's license. The receipt reflects the applicant's address as \_\_\_\_\_ in Long Beach. However, the applicant claimed on his Form I-687 application that he originally lived at that address only through March 1985.
12. A copy of a December 17, 1985 customer order from and receipt from GTE for new telephone service at \_\_\_\_\_ in Long Beach. We note that the California identification number on the receipt does not match the identification number assigned to the applicant on August 22, 1985.
13. A December 31, 1985 customer deposit receipt issued to the applicant by the Southern California Edison Company for the service address of \_\_\_\_\_
14. A September 27, 2001 sworn statement from \_\_\_\_\_ in which he stated that he has known the applicant since December 1981, and that the applicant was his helper at swap meets from

December 1981 until April 1985, working two days a week. This conflicts with the applicant's statement on his Form I-687 application where he stated that he worked as a swap meet helper from June 1981 to December 1982, and that he worked as a cashier at a service station from January 1983 to August 1986. The applicant submitted no independent objective evidence to resolve this inconsistency. *See Matter of Ho*, 19 I&N Dec. at 591. In a September 29, 2004 sworn statement submitted on appeal, Mr. [REDACTED] repeated his statement and further stated that he picked the applicant up at his home at [REDACTED] as the applicant did not own a vehicle and was new to the United States. Mr. [REDACTED] did not indicate how he dated the applicant's work with him or his recollection of the applicant's residence.

15. A November 12, 2003 letter from [REDACTED] of the Coptic Orthodox Church of the Diocese of Los Angeles, in which he certified that the applicant had been a member of the St. George Church since April 1982, when he arrived from Egypt. The letter does not indicate the source of the information contained in the letter and does not indicate the applicant's address at the time of his membership in the church. *See* 8 C.F.R. § 245a.2(d)(3)(v). Further, this letter contradicts the applicant's statement that he had been a member of the church since April 1981 *See id.* In a September 24, 2004 letter submitted on appeal [REDACTED] stated that he "used to go see [the applicant] in his residence at [REDACTED] in Long Beach."

Counsel asserts that the affidavits and statements submitted by the applicant, together with the lease agreements, rental checks, and receipts, corroborate his claim of continuing residency in the United States during the required time frame. The documentary evidence, however, casts doubt on the statements of the applicant's supporters, as it is inconsistent, has been altered, or has been damaged in such a manner that it undermines the credibility of the applicant and his documentation, as well as the statements and of those who submitted statements on his behalf.

Accordingly, 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.