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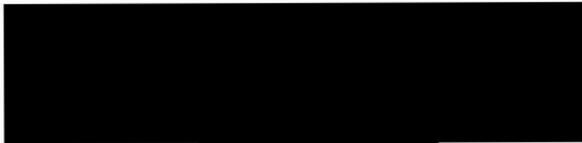
U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
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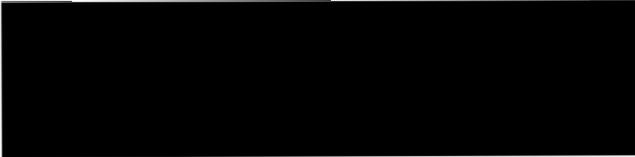
Applicant:



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, Dallas, Texas, 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.

On appeal, counsel states that the director failed to “properly define ‘preponderance of the evidence,’ has failed to ‘conduct an examination of each piece of relevant evidence, and has failed to ‘challenge the credibility of the applicant or the authenticity of the documents’ with specific reasoning.” Counsel submits a brief, copies of previously submitted documentation, and a copy of a webpage on the restaurant Campo Verde.

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 states that he first entered the United States on October 8, 1981 when he was approximately 12 years of age. On his Form I-687, Application for Status as a Temporary Resident, which he signed under penalty of perjury on September 6, 1990, the applicant stated that he lived with, and was supported by, his

brother from October 1981 to September 1990, and that he worked as a busboy at the Campo Verde Restaurant from September 1990 until the date of the Form I-687 application.

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

1. A Form I-134, Affidavit of Support, signed by the applicant's brother, [REDACTED] on which he stated that he had supported the applicant since his arrival in the United States in October 1981. Mr. [REDACTED] stated that the applicant did not attend school because he was in an illegal status.
2. A September 2, 1990 sworn affidavit from [REDACTED] in which he stated that he has been a friend of the applicant's since October 1981 and that the applicant had resided in Fort Worth, Texas "at all above address[es] and time." The affiant specifically identifies the applicant's residences beginning in September 1990; however, he indicated that he had personal knowledge of the "Forth Worth Texas Resident Letter Witness." It is unclear what the affiant means and exactly to what knowledge he is attesting. The affidavit, therefore, fails to provide probative evidence of the applicant's residency and presence in the United States during the required period.
3. A September 5, 1990 sworn affidavit from [REDACTED] in which he stated that he has known the applicant since 1990 and that the applicant lived in Fort Worth, Texas during this time. Although Mr. [REDACTED] stated that he was a legal resident, the applicant submitted no evidence to establish that Mr. [REDACTED] was present in the United States during the qualifying period.
4. A September 5, 1990 sworn affidavit from [REDACTED] in which he stated that the applicant had been a resident of, and physically present in, Fort Worth since October 1981. The affiant did not indicate the source of his knowledge of the beneficiary's presence in the United States.
5. A September 5, 1990 sworn affidavit from [REDACTED] in which he states that the applicant lived with, and was supported by, his brother since October 1981. Mr. [REDACTED] did not indicate the source of his knowledge of the beneficiary's presence in the United States or his living arrangements.
6. A May 19, 1993 sworn affidavit from [REDACTED] the applicant's brother, in which he stated that the applicant "has been living illegal [sic] permanent resident since October 1981." The affiant also submitted sworn statements in February 2002, attesting to his brother's presence in the United States since October 1981.
7. A May 23, 1993 sworn affidavit from [REDACTED], in which he stated that the applicant had resided illegally in the United States since October 1981. Mr. [REDACTED] did not state the source of his knowledge of the applicant's presence and residency in the United States.
8. A May 21, 1993 sworn affidavit from [REDACTED], in which he certified that the applicant resided illegally in the United States since October 1981. Mr. [REDACTED] did not state the source of his knowledge of the applicant's presence and residency in the United States.
9. A March 4, 2002 notarized statement from [REDACTED] in which he stated that he has known the applicant for 25 years, dating from when they were neighbors in Mexico. Mr. [REDACTED] stated that the applicant came to live in the United States in 1981.

10. A March 5, 2002 sworn affidavit from Alfonso Medina, in which he stated that he has known the applicant since his arrival in Fort Worth in 1981. Mr. [REDACTED] did not indicate the circumstances surrounding his initial acquaintance with the applicant; however, in a March 27, 2003 letter, Mr. [REDACTED] stated that he is a friend of the applicant's and that they work together. Mr. [REDACTED] did not indicate the length of their working relationship. Further, although Mr. [REDACTED] provided evidence that he became a naturalized citizen in November 1999, the applicant submitted no evidence to show that Mr. [REDACTED] was present and living in the United States during the relevant time frame.
11. A March 12, 2001 letter from [REDACTED], the associate pastoral administrator of the St. Mary of the Assumption Church. [REDACTED] stated that the applicant had been a parishioner of the church since 1984. 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 parish. 8 C.F.R. § 245a.2(d)(3)(v).
12. A March 2, 2002 letter from [REDACTED], the general manager of the Campo Verde restaurant, in which he certified that the applicant had worked for the company full time as a busboy since October 22, 1981. The letter does not indicate that the source of the information regarding the applicant's employment or the applicant's address at the time of his employment. See 8 C.F.R. § 245a.2(d)(3)(i). This statement also conflicts with the applicant's statement on his Form I-687 application, on which he stated that he began working at the restaurant in September 1990. 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). Mr. Barr indicated that his employees are paid every week by check; however, neither he nor the applicant provided any documentary evidence of the applicant's employment with the company.
13. A March 28, 2003 notarized letter from [REDACTED], owner of the Campo Verde restaurant, in which he stated that the applicant has been an employee of the restaurant since October 22, 1981. Mr. [REDACTED] stated that this information was not taken from company records, "as some do not exist." He further stated that he has personal knowledge of the facts in his letter. Nonetheless, Mr. [REDACTED] did not indicate the basis of his detailed knowledge of the applicant's work history. As with Mr. [REDACTED] statement, Mr. [REDACTED]'s statement also conflicts with that of the applicant, who stated that he began working for the restaurant in September 1990. *Id.* Further, although he stated that the applicant was paid by cash or check, no evidence of any compensation paid to the applicant during the qualifying period was presented by either Mr. [REDACTED] or the applicant.
14. On appeal, the applicant submits a copy of a March 26, 2003 sworn statement from [REDACTED] in which he stated that the applicant lived with him at [REDACTED] in Fort Worth "since 1981." This statement conflicts with the statements of the applicant and that of his brother who stated that the applicant was supported by his brother and lived at [REDACTED] from October 1981 until September 1990. This statement further conflicts with that of all of the affiants who attested to the truth and accuracy of the statements provided in the support affidavit. Mr. [REDACTED]'s statement raises questions regarding the credibility of all statements in the record. 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.

The applicant submitted no contemporaneous evidence of his presence and residency in the United States during the requisite period. Given the unresolved inconsistencies, 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.