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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]
MSC 01 353 60920

Office: LOS ANGELES

Date: SEP 21 2006

IN RE: Applicant: [REDACTED]

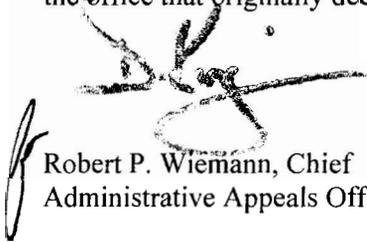
APPLICATION: Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), amended by Life Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000)

ON BEHALF OF APPLICANT:



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 (AAO) 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 rejected “the accumulated credible and direct testimony, and declarations that corroborate and establish” the applicant’s presence in the United States during the required period. Counsel indicated on the Form I-290B, Notice of Appeal to the Administrative Appeals Unit, that he needed an additional 180 days in which to submit a brief and/or additional evidence. As of the date of this decision, however, more than 22 months after the appeal was filed, no further documentation has been received by the AAO. Therefore, the record will be considered complete as presently constituted.

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 stated on his Form I-687, Application for Status as a Temporary Resident, which he signed on September 16, 1990, that he entered the United States on December 12, 1979 pursuant to a C-1, Alien in Transit, nonimmigrant visa, and that his authorization to stay expired on January 12, 1980. The applicant

stated that he worked as a field laborer for [REDACTED] from December 1981 to February 1986, and for [REDACTED] as a field laborer from March 1986 until the date of the Form I-687 application. The applicant stated that he lived at [REDACTED] in Bakersfield, California from December 1981 until January 1990.

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 copy of an October 17, 1990 sworn statement from [REDACTED] in which he stated that the applicant lived with him at [REDACTED] in Simi Valley, California, from June 1979 to October 1980. The applicant submitted no documentation reflecting that Mr. [REDACTED] was present and living in the United States during the stated time frame or that he lived at the address indicated.
2. An August 23, 2001 sworn affidavit from [REDACTED] in which he stated that he has known the applicant since 1981 when he came to California. Mr. [REDACTED] did not provide any information regarding his initial acquaintance with the applicant.
3. An August 27, 2001 sworn statement from [REDACTED] who stated that he has known the applicant since 1981 when he first came to Bakersfield, California. The affiant did not indicate the circumstances under which he first met the applicant.
4. A September 20, 1990 sworn statement from [REDACTED] in which he stated that he was the applicant's landlord from November 1981 to February 1986, when he lived at [REDACTED] in Bakersfield, which Mr. [REDACTED] also indicated was his own address. Mr. [REDACTED] provided no other details about the applicant's living arrangements, including the terms of the applicant's lease or residency with Mr. [REDACTED].
5. Two November 13, 1990 notarized statements from [REDACTED]. In one statement, Mr. Bustamante stated that the applicant worked for him from December 1981 until February 1983 on the [REDACTED] as a seasonal agricultural worker. Mr. [REDACTED] stated that when he changed jobs and became foreman on another ranch, he "kept" the applicant as a worker. In his second statement, Mr. [REDACTED] stated that the applicant worked for him from March 1983 to February 1986 on the [REDACTED] and the [REDACTED]. In a September 14, 1990 sworn affidavit, Mr. [REDACTED] stated that he has known the applicant since November 1981, and that he saw him almost every day in the field. The applicant submitted no documentation to establish that Mr. [REDACTED] served in the positions that he indicated or that either of them worked for the ranches indicated. Mr. [REDACTED] did not indicate that the information he provided was taken from any official records and did not otherwise indicate the source he used to date the applicant's work on the ranches as alleged. *See* 8 C.F.R. § 245a.2(d)(3)(i).
6. A November 13, 1990 notarized statement from [REDACTED] who stated that he is a cash buyer for various fields of seasonal fruit, and that the applicant worked for him from March 1986 until the date of the statement. Mr. [REDACTED] also executed a sworn affidavit on September 12, 1990 in which he stated that he has known the applicant since March 1986, and that he saw him in the fields almost every day and "sometimes" they talked. Mr. [REDACTED] did not specify the records that he relied upon to place the applicant in his employ during the stated time frame. *Id.*

In this instance, the applicant has submitted nine affidavits and third-party statements from seven individuals attesting to his continuous residence in the U.S. during the period in question. Affidavits in certain cases can effectively meet the preponderance of evidence standard. However, in the instant case, the affidavits submitted by the applicant lack sufficient corroborating detail to establish the applicant's presence and residency in the United States during the qualifying period. The applicant submitted no contemporaneous documentation as corroborative evidence of his residency during the qualifying period.

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.