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U.S. Citizenship
and Immigration
Services

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LR

FILE:

[REDACTED]

Office: Los Angeles

Date:

APR 19 2007

MSC 02 235 63046

IN RE:

Applicant: [REDACTED]

PETITION: 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.

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 district director determined that the applicant had not established that he resided in the United States in a continuous unlawful status from before January 1, 1982 through May 4, 1988, as required by section 1104(c)(2)(B) of the LIFE Act.

On appeal, counsel contends that Citizenship and Immigration Services, or CIS (Immigration and Naturalization Service, or the Service) erred in denying the application because evidence submitted by the applicant in response to a Form I-72, Request for Additional Evidence, was not considered. Counsel includes copies of previously submitted documentation in support of the applicant's claim of residence for the requisite period.

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. *See* § 1104(c)(2)(B) of the LIFE Act and 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 under the provisions of section 212(a) of the Immigration and Nationality Act (Act), 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. *See* 8 C.F.R. § 245a.12(e).

Although the regulation at 8 C.F.R. § 245a.2(d)(3) provides an illustrative list of contemporaneous documents that an applicant may submit in support of his or her claim of continuous residence in the United States in an unlawful status since prior to January 1, 1982 to May 4, 1988, the submission of any other relevant document including affidavits is permitted pursuant to 8 C.F.R. § 245a.2(d)(3)(vi)(L).

8 C.F.R. § 245a.2(d)(3)(v) states that attestations by churches, unions, or other organizations to the applicant's residence by letter must: identify applicant by name; be signed by an official (whose title is shown); show inclusive dates of membership; state the address where applicant resided during membership period; include the seal of the organization impressed on the letter or the letterhead of the organization, if the organization has letterhead stationery; establish how the author knows the applicant; and, establish the origin of the information being attested to.

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.

At issue in this proceeding is whether the applicant has submitted sufficient credible evidence to 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. Here, the submitted evidence is not relevant, probative, and credible.

The applicant made a claim to class membership in a legalization class-action lawsuit and as such, was permitted to previously file a Form I-687, Application for Temporary Resident Status Pursuant to Section 245A of the Immigration and Nationality Act (Act) on May 2, 1990. At part #33 of the Form I-687 application where applicants were asked to list all residences in the United States since the date of their first entry, the applicant listed [REDACTED] in Lodi, California from March 1981 to February 1984, [REDACTED] in Lodi, California from February 1984 to January 1987, and [REDACTED] in Hollywood, California from January 1987 to May 2, 1990, the date the Form I-687 application was submitted to the Service.

The applicant included an affidavit signed by [REDACTED] who attested to the applicant's absence from the United States in that period from October 25, 1987 to October 30, 1987 when he traveled to Tijuana, Mexico to see a dentist. However, [REDACTED] failed to provide any specific and verifiable information such as the applicant's address(es) of residence in this country that would tend to corroborate his claim of residence in the United States from prior to January 1, 1982 to May 4, 1988.

Subsequently, on May 23, 2002, the applicant filed his Form I-485 LIFE Act application. In support of his claim of residence in the United States from prior to January 1, 1982, the applicant submitted eight original receipts from retail establishments that are dated April 11, 1981, April 22, 1981, December 8, 1981, June 17, 1982, June 21, 1982, June 25, 1982, June 27, 1982, and July 18, 1984, respectively. However, these receipts do not contain any information relating to the applicant and, therefore, such receipts cannot be considered as probative evidence to support the applicant's claim of residence in this country for the requisite period.

The applicant included photocopies of sixty-one receipts from retail stores and establishments, restaurants, the United States Postal Service, and the Pennsylvania Turnpike System containing dates ranging from April 1981 to 1988. Again, such photocopied receipts cannot be considered as being probative to the applicant's claim of residence in the United States since prior to January 1, 1982 because these receipts do not contain any information relating to him.

The applicant provided an original envelope containing Pakistani postage stamps that is postmarked July 7, 1981 and addressed to the applicant at [REDACTED] in Lodi, California. However, the applicant listed his address of residence as [REDACTED] in Lodi, California from February 1984 to January 1987 without listing any apartment number at part #33 of the Form I-687 application. Moreover, the applicant failed to provide any explanation as to how he was receiving mail at this address in July 1981 when he testified that he did not begin residing at such address until February 1984.

The applicant submitted two original Rediform rent receipts dated December 18, 1981 and June 8, 1982, respectively. The receipt dated December 18, 1981 reflected the applicant's payment of \$25.00 in rent for the week of December 16 to December 23 for [REDACTED]. The receipt dated June 8, 1982 reflected the applicant's payment of \$60.00 in rent for the period from June 1, 1982 to July 1, 1982 for [REDACTED] at an unspecified address. While the applicant provided the previously discussed postmarked envelope indicating that he resided in apartment or room number [REDACTED] of [REDACTED], he listed [REDACTED] in Lodi, California as his address of residence from February 1984 to January 1987 without including any apartment or room number at part #33 of the Form I-687 application. Furthermore, the applicant failed to provide any explanation as to why he was paying rent for these premises in 1981 and 1982 when he testified that he did not begin residing at such address until February 1984.

The applicant included a photocopy of a receipt reflecting his payment of \$20.00 a dentist in Tijuana, Mexico for a consult, cleaning, and treatment rendered to him on October 27, 1987. However, this receipt can only be considered as proof that the applicant received treatment from a dentist in Tijuana, Mexico on or about such date and cannot be considered as evidence of his residence in the United States from prior to January 1, 1982 to May 4, 1988.

The applicant provided two original receipts from the [REDACTED] in Lodi, California that are dated August 24, 1981 and January 8, 1984 and reflect \$5.00 contributions he made to this religious institution on these respective dates. However, the only pertinent information directly related to the applicant on the receipt dated August 24, 1981 is a handwritten notation containing his first name, middle initial, and last name, while the receipt dated January 8, 1984 contained only his last name in a handwritten notation. Such receipts must be considered to be minimally probative in light of the lack of the specific and verifiable information relating to the applicant that is contained in the two receipts.

The applicant submitted an affidavit of residence that is signed by [REDACTED]. [REDACTED] stated that his relationship to the applicant was that of friend and employer. [REDACTED] declared that the applicant resided at [REDACTED] in Lodi, California from 1981 to 1983 and [REDACTED] in Lodi, California for an unspecified period in 1985. However, [REDACTED] testimony relating to the dates the applicant resided at each of these two addresses directly conflicts with the applicant's testimony that he lived at the [REDACTED] address from March 1981 to February 1984 and the [REDACTED] address from February 1984 to January 1987.

The applicant also included an employment affidavit signed by [REDACTED], who declared that he is a licensed farm labor contractor in the state of California. [REDACTED] noted that he employed the

applicant as a farm laborer in the vineyards and orchards for more than ninety days from 1981 to 1986. [REDACTED] provided a subsequent affidavit in which he stated that his prior testimony in his affidavit of residence and employment affidavit constituted all records that he possessed relating to the applicant.

The applicant submitted an affidavit of residence signed by [REDACTED] who stated that knew the applicant had resided in the United States since 1981 as a result of the personal relationship he had developed with him. [REDACTED] provided a listing of the applicant's addresses of residence in this country that matched those listed by the applicant at part #33 of the Form I-687 application.

The applicant included an affidavit of residence that is signed by [REDACTED] [REDACTED] noted that his family and the applicant's family were close friends in Pakistan and he and the applicant first became acquainted when the applicant was ten years old. [REDACTED] stated that the applicant came to this country in March of 1981 and that he resided in Lodi, California from such date until early 1986 when he moved to Los Angeles, California. Although [REDACTED] attested to the general locales where the applicant resided during the period in question, he failed to provide relevant and pertinent testimony to verify and confirm the applicant's claim of residence.

The applicant provided an affidavit of residence signed by [REDACTED] who indicated that he had known the applicant since 1981. [REDACTED] declared that the applicant moved into his apartment in Los Angeles, California in 1998 and that they continued to reside together as roommates through August 12, 2004, the date the affidavit was executed. However, [REDACTED] failed to provide any direct and verifiable testimony such as the applicant's address(es) of residence in this country, which would tend to corroborate his claim of residence in the United States from prior to January 1, 1982 to May 4, 1988.

In the notice of intent to deny issued on February 4, 2004, the district director questioned the veracity of the applicant's claimed residence in the United States. Specifically, the district director concluded that the applicant had failed to submit any evidence of residence other than affidavits and copies of receipts that did not bear sufficient information to corroborate his claim of residence. However, the district director failed to acknowledge that the applicant had submitted contemporaneous and original documents to support his claim of residence and to address such evidence in the notice. The applicant was granted thirty days to respond to the notice. The record shows that neither the applicant nor counsel submitted a response to this notice.

The district director determined that the applicant failed to submit sufficient credible evidence demonstrating his residence in the United States in an unlawful status from January 1, 1982 through May 4, 1988, and, therefore, denied the Form I-485 LIFE Act application on October 5, 2004.

Counsel's statements on appeal regarding evidence submitted by the applicant that was not addressed by the district director in the notice of intent to deny have been considered. Nevertheless, any and all evidence submitted by the applicant in support of his claim of continuous residence in the United States for the requisite period has been acknowledged and addressed in this decision. The evidence submitted by the applicant relating to his residence in the United States from prior to January 1, 1982 lacks sufficient detail, contains little verifiable information, and is contradictory to

the substance of the applicant's own testimony regarding his residence in this country for the requisite period.

The absence of sufficiently detailed supporting documentation and the contradictory nature of testimony and evidence relating to the applicant's addresses of residence seriously undermine the credibility of the applicant's claim of residence in this country for the requisite period, as well as the credibility of the documents submitted in support of such claim. Pursuant to 8 C.F.R. § 245a.12(e), the inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. The applicant has failed to submit sufficient credible documentation to meet his burden of proof in establishing that he or she has resided in the United States since prior to January 1, 1982 to May 4, 1988 by a preponderance of the evidence as required under both 8 C.F.R. § 245a.12(e) and *Matter of E-M-*, 20 I&N Dec. 77.

Given the applicant's reliance upon documents with minimal or no probative value, it is concluded that he has failed to establish continuous residence in an unlawful status in the United States from prior to January 1, 1982 through May 4, 1988 as required under section 1104(c)(2)(B) of the LIFE Act. The applicant is, therefore, ineligible for permanent resident status under section 1104 of the LIFE Act on this basis.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.