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U.S. Citizenship
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FILE: [REDACTED] MSC 01 284 60225

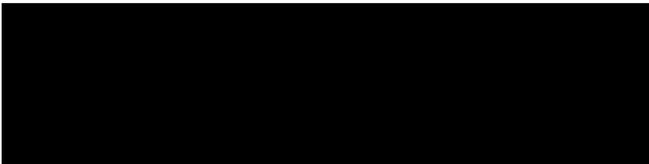
Office: LOS ANGELES

Date: APR 27 2007

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, the applicant asserts that he has submitted substantial evidence to establish that he has resided continuously in the United States for the required period. The applicant further asserts that the director failed to properly consider the evidence in his case and abused his authority by basing his decision on "unfounded facts." The applicant stated that he "reserve[d] his right to file an additional brief and/or additional documents." As of the date of this decision, however, more than 27 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 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 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).

On a Form I-687, Application for Status as a Temporary Resident, and a form to determine class membership, both of which he signed under penalty of perjury on June 28, 1991, the applicant denied the

use of any other names. However, in a June 12, 1993 affidavit, the applicant stated that he had used the aliases [REDACTED], which he stated was the middle name on his baptismal certificate, and Sixto Solis, which he stated was a name he invented. In a 2001 addendum to a Form I-765, the applicant also stated that he used the name [REDACTED]. However, the applicant submitted no evidence corroborating his use of these names. 8 C.F.R. § 245a.4(b)(iii).

The applicant stated on his Form I-687 application that he first entered the United States in June 1980, and that he lived at the following addresses in California during the requisite period:

- August 1980 to February 1982
- February 1982 to November 1983
- January 1984 to July 1988



The applicant identified only one employer for which he worked during the required period: LMN Corporation in Los Angeles, from January 1985 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 submitted the following evidence:

1. A June 21, 1991 sworn statement from [REDACTED] in which she stated that [REDACTED] shared rent with her at property that she was renting from August 1980 to November 1983. Ms. [REDACTED] stated that the receipts were in her name only; however, the applicant submitted no evidence that either he, [REDACTED] or Ms. [REDACTED] lived at the addresses claimed at any time. Further, Ms. [REDACTED] did not state that she also knew the applicant to be [REDACTED]. In a June 20, 2001 affidavit, Ms. [REDACTED] stated that she could vouch for the applicant's presence in the United States since July 1980 because he came to live at an apartment building that she was renting. Although the affidavit contains a heading that includes the aliases allegedly used by the applicant, Ms. [REDACTED] did not state that she knew the applicant to be the same person, that he was also known as [REDACTED], or that she was aware of the aliases that he allegedly used. Further, she stated that the applicant came to live in an apartment building that she rented on a date that is one month earlier than when she stated she began sharing the rent with [REDACTED].
2. A June 21, 1991 affidavit from [REDACTED], in which she stated that she met [REDACTED] in March 1981 at their mutual place of work. The affiant did not state that she knew the applicant as [REDACTED] and did not identify the company at which they worked together. The applicant did not indicate on his Form I-687 application that he was employed in 1981.
3. A February 9, 1982 purchase receipt reflecting the applicant as the purchaser. The complete name of the company is illegible, but the company logo is JCP. The address and other information about the company do not appear on the receipt.
4. Copies of rental receipts in the name of [REDACTED] and [REDACTED] dated in 1984 (the earliest of which is June), 1985, 1986, 1987 and 1988. The receipts indicate that they are for rent for an apartment, which is at times identified as being at [REDACTED] and at other times, the location is not identified. As previously discussed, the applicant submitted no corroborative evidence that he was known under any of these various aliases.

5. A copy of a March 8, 1983 PS Form 3806, Receipt for Registered Mail, reflecting the applicant as the sender.
6. A June 20, 1991 sworn statement from [REDACTED], in which he certified that [REDACTED] had worked for him since 1985. The letter did not indicate that the applicant was the [REDACTED] referred to by Mr. [REDACTED]. Additionally, while the letter contained a typed written letterhead identifying the company as LMN Corporation in Los Angeles, Mr. [REDACTED] did not identify his position with the company or the source of the information regarding Mr. [REDACTED] employment history. On his Form G-325A, Biographic Information, which he signed under penalty of perjury on June 27, 2001, the applicant stated that he began working for LMN Corporation in March 1985. This is inconsistent with his statement on the Form I-687 application, in which he stated that he began working for the company in January 1985. In a July 24, 1991 sworn statement, Mr. [REDACTED] stated that he knew that Mr. [REDACTED] worked for his "neighbor's company" from 1981 to 1984. Mr. [REDACTED] again did not state that the applicant and Mr. [REDACTED] were the same person nor did he identify the "neighbor's company" for which Mr. [REDACTED] allegedly worked.
7. A June 11, 1991 letter from Pacific Bell, confirming telephone service for [REDACTED] [REDACTED] in Los Angeles from November 8, 1985 through the date of the letter. The letter does not identify the applicant as [REDACTED]. Further, the applicant claimed to have lived at [REDACTED] [REDACTED] from 1984 through July 1988, and that he moved to 1 [REDACTED] Place in August 1988. A partial copy of a lease agreement and a rental receipt indicate that the applicant entered into a lease to begin occupancy of the identified property on September 15, 1988. 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).
8. A copy of a January 5, 1988 money order receipt payable to [REDACTED]. The applicant's name is written at the bottom of the receipt; however, it cannot be determined as to when his name was added to the document.
9. A copy of a January 10, 1986 receipt for an identification card from the State of California Department of Motor Vehicles.
10. A copy of a 1989 Form 1099G, Report of state Income Tax Refund, for [REDACTED] reflecting that he received a tax refund from the State of California for the tax year 1988.

The applicant also submitted a copy of an envelope postmarked in August 1988. However, as this is outside the qualifying period, it is not probative evidence of his continuous residency and presence for the purpose of establishing eligibility under the LIFE Act.

In her Notice of Intent to Deny (NOID) dated September 30, 2004, the director questioned the authenticity of the rent receipts submitted by the applicant, stating that the version of the forms predate the dates alleged for the applicant's payment of rent. The record contains no evidence to support the director's conclusion. Further, that the print versions of the forms are before their actual use is not evidence of any misrepresentation, and in fact, is a logical process. We withdraw these statements by the director.

Nonetheless, the applicant failed to establish that the rental receipts issued to [REDACTED] in any of the variations of the name, were actually issued to him. Further, the applicant failed to establish that he is the same person who was known by the name of [REDACTED]n. The applicant submitted inconsistent evidence of the residences at which he allegedly resided under the names of [REDACTED] and [REDACTED] [REDACTED] Accordingly, the applicant has failed to establish that he continuously resided in the United States during the requisite period.

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