U.S. Department of Homeland Security
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U.S. Citizenship and Immigration Services

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[redacted]

FILE: [redacted] Office: CHICAGO Date: DEC 1 4 2007
MSC 03 226 60786

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:

[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, Chicago, Illinois, 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 the director erred in his application of law. Counsel asserts that the applicant provided all of the required evidence, including primary and secondary evidence, and has submitted sufficient evidence to establish that he resided continuously in the United States from prior to January 1, 1982. Counsel submits a brief in support of the appeal.

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).

In an affidavit to establish class membership, which he signed under penalty of perjury on March 3, 1991, the applicant stated that he first entered the United States on July 14, 1981 when he crossed the border without inspection. On his Form I-687, Application for Status as a Temporary Resident, which he also signed under penalty of perjury on March 3, 1991, the applicant stated that he lived at

in Queens, New York from July 1981 to February 1988, and at in Chicago, Illinois from April 1988 to May 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. Copies of apartment leases for the periods July 25, 1981 to July 24, 1983; and July 25, 1983 to July 24, 1985. The leases show the applicant and his brother as the tenants and as the landlord.

2. A December 9, 2003 affidavit from , in which he stated that he sold flowerers to the applicant on "numerous occasions between 1981 and 1987" for resale in the applicant's street vending business. The affiant stated that he sold the flowers to the applicant at the request of the applicant's brother. However, the affiant did not state how he established the dates of his business relationship with the applicant and the applicant submitted no documentary evidence to confirm a business relationship with

3. A copy of a letter from the Human Resources Administration Medical Assistance Program for the City of New York. The letter is dated October 17, 1981 and indicates that it is reference to the applicant as an employee of Jamaica Hospital. However, the applicant did not at any time claim to have worked for the City of New York or Jamaica Hospital.

4. A December 11, 2003 letter from the St. John Church signed by the chancellor to the diocese. stated that the applicant moved to Chicago in October 1987, but that he had visited and participated in parish activities periodically beginning in 1981. The letter does not indicate the source of the information provided by . This letter does not meet the requirements of 8 C.F.R. § 245a.2(d)(3)(v).

5. A copy of an affidavit from in which he stated that he had known the applicant since 1982 and that the applicant had resided continuously in the United States since that time.[1] , who indicated that he lived in Chicago, Illinois, stated that he was a personal friend of the applicant but did not state the circumstances of his initial acquaintance with the applicant.

6. A copy of an April 21, 2003 affidavit from , in which he stated that he had known the applicant since 1982 and that the applicant had resided continuously in the United States since that time. who indicated that he lived in Chicago, Illinois, stated that he was a neighbor and personal friend of the applicant but did not state the circumstances of his initial acquaintance with the applicant.

7. A copy of a December 10, 1991 letter from the Muslim Community Center in Chicago, Illinois signed by in which he certified that the applicant had worked as a "Basis Arabic Teacher" for the center's summer school held from June to August. The letter indicated that from 1982 to 1987, the applicant commuted from New York, and that after moving to New York, he taught at the center's "Saturday Arabic School." The letter indicated that the center paid for the applicant's transportation from New York and paid him $1,000 to teach at the school. The applicant did not list this employment on his Form I-687 application and did not identify any affiliation or

[1] The notary's attestation indicates that the document was signed on April 18; however, no year is shown.

association with a church or other organization in block 34 of the Form I-687 application. The applicant submitted no documentary evidence to verify his employment with the Muslim Community Center.

8. A March 2, 1982 from Jamaica Hospital Medical Center indicating that it was sent by of the "cardiological lab." However, the signature does not appear to be that of .

9. A January 20, 2004 letter from the dental office of , signed by the office manager. The letter indicates that the office provided dental services to the applicant from May 1982 through September 1988. The letterhead indicates that the dental office is located in Chicago, Illinois. However, the applicant claimed to have lived in New York from April 1981 to February 1988.

10. A copy of the immunization record for the applicant's son, who was born in Saudi Arabia in 1982. Although the record indicates that the child received vaccines beginning in 1983, the record is unclear as to where these vaccines were administered. The revised date on the document, however, is October 1985.

11. A February 10, 1983 letter from Jamaica Hospital Medical Center rescheduling the applicant's appointment. The signature on the letter is illegible and the letter does not contain an address for the hospital.

12. A copy of a sales order from Wholesale Warehouse in Chicago, Illinois dated April 4, 1984, which shows the applicant as the buyer with an address of in Chicago. The applicant indicated on his Form I-687 application that he moved to this address in July 1990. Further, the applicant stated that he lived in New York from 1981 to February 1988.

13. A copy of a laboratory order form from the Fantus Health Center in Chicago. The form shows the applicant's name and is dated June 13, 1985. However, as discussed above, the applicant stated on his Form I-687 that he did not move to Chicago until 1988.

14. A copy of a Dollar Car Rental agreement dated November 1, 1985. The document shows the applicant as the lessee but does not show an address for the applicant or for the rental company.

15. A copy of a November 17, 1987 tuberculin tine test record for the applicant's son. The record appears to have been issued by the Coney Island Hospital in Brooklyn, New York.

16. A copy of an April 21, 2003 affidavit from Quinoot Nadeem Sharafi, the applicant's daughter, in which she attested that the applicant had lived continuously in the United States since her birth in 1987.

17. Copies of the birth records of the applicant's daughter, indicating that she was born in the Central DuPage Hospital in Winfield, Illinois on December 17, 1987.

18. A copy of an April 21, 2003 affidavit from , in which he stated that he had known the applicant since 1988 and that the applicant had resided continuously in the United States since that time. stated that the applicant had been his neighbor.

The applicant submitted conflicting documentation regarding his residences and employment during the requisite period. He also submitted several form affidavits that contain scant detail. They fail to indicate the frequency of their contact with the applicant. Accordingly, the applicant has failed to establish by a preponderance of the evidence that he resided continuously in the United States during the qualifying period.

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