



U.S. Citizenship  
and Immigration  
Services

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FILE: [Redacted]  
MSC 01 359 62649

Office: LOS ANGELES

Date: FEB 23 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:

SELF-REPRESENTED

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, 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 from before January 1, 1982 through May 4, 1988.

On appeal, the applicant asserts that because he was only thirteen years old when he arrived in the United States, he is unable to provide evidence other than affidavits as proof of residency. The applicant contends that the evidence submitted is sufficient under the circumstances to meet his burden of proof.

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. 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).

While there is no specific regulation which governs what third party individual affidavits should contain to be of sufficient probative value, the regulations do set forth the elements which affidavits are to include. 8 C.F.R. § 245a.2(d)(3). These guidelines provide a basis for a flexible standard of the information which an affidavit should contain in order to render it probative for the purpose of comparison with the other evidence of record.

According to the guidelines set forth in 8 C.F.R. § 245a.2(d)(3), a signed attestation should contain (1) an identification of the applicant by name; (2) the dates of the applicant's continuous residence to which the affiant can personally attest; (3) the address(es) where the applicant resided throughout the period which the affiant has known the applicant; (4) the basis for the affiant's acquaintance with the applicant; (5) the means by which the affiant may be contacted; and, (6) the origin of the information being attested to. See 8 C.F.R. § 245a.2(d)(3)(v).

Here, the submitted evidence is not relevant, probative, and credible.

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

- A letter dated October 22, 2001 from [REDACTED] of the St. Neri Catholic Church in Lynwood, California indicating that the applicant was a parishioner and involved in activities at the church from 1981 to 2001.
- An affidavit notarized August 25, 2001 from [REDACTED] a cousin of the applicant, who attested to the applicant's residence in the United States since 1981 and that from 1984 until 1987, the applicant resided with him at [REDACTED] Paramount, California.
- An affidavit notarized August 25, 2001 from [REDACTED] another of the applicant's cousins who states she entered the United States in 1984 and that she knows that the applicant came to reside in the United States shortly after his January 1988 marriage.
- An affidavit notarized August 25, 2001 from [REDACTED] who states that she has known the applicant since childhood and that when she arrived in the United States in 1981, the applicant was already residing here. [REDACTED] states that she is related to the applicant through marriage.
- A letter dated July 16, 1990 from [REDACTED] Corporate Secretary of Martin Metal Finishing, stating that the applicant worked for the company under the name [REDACTED] from November 9, 1984 to November 28, 1987.
- A letter dated December 27, 1989 from [REDACTED] Corporate Secretary of Martin Metal Finishing, stating that the applicant worked for the company from January 26, 1988 to June 1989.

- An affidavit notarized January 2, 1990 from [REDACTED] stating that he employed the applicant from December 1981 to March 1983.
- An affidavit notarized December 30, 1989 from [REDACTED] stating that he knows the applicant resided in Los Angeles, California from December 1981 through that date because he is a relative that sees the applicant “every day.”
- An affidavit notarized December 30, 1989 from [REDACTED], the applicant’s cousin, stating that he knows the applicant lived in Los Angeles, California from November 1981 to that date because he saw the applicant “here in the Los Angeles, California back in the year 1981.”
- An affidavit notarized December 27, 1989 from [REDACTED] stating that he knows that the applicant lived in Inglewood, California from December 1981 to December 1984; in Paramount, California from December 1984 to November 1989; and again in Inglewood from November 1989 to the date of the affidavit.
- Miscellaneous documentation dated after the qualifying period ended.

On September 15, 2004, the director issued a Notice of Intent to Deny, advising the applicant that the affidavits he submitted were not credible and probative. The director noted that the applicant had not submitted any documentation of residency “other than affidavits/statements” for the years 1981, 1982, 1983 and 1984. The director determined that the “affidavits/statements [the applicant] submitted do not contain enough objective evidence to which they can be compared to determine whether the attestations are credible, plausible, or internally consistent with the record.”

The applicant, in a response dated October 29, 2004, stated that he possesses no additional evidence of residency because he was a minor when he came to the United States. The applicant also asserts that his former employer no longer lives in the area, making it impossible to obtain evidence from the employer. The applicant submitted the letter from [REDACTED] with his response.

The director determined that the information the applicant submitted “failed to overcome the grounds for denial as stated in the NOID,” and denied the application for the reasons stated in the NOID.

The AAO does not view the affidavits listed above as substantive enough to support a finding that the applicant entered and began residing in the United States during the requisite period—particularly prior to 1984—because contradictory information has been provided. Specifically, the applicant submitted an affidavit from [REDACTED] attesting that the applicant resided with and worked for the affiant from December 1981 to March 1983 and was paid in cash. The applicant did not list this employment on his Form I-687.

Almost all the other affidavits submitted by the applicant to prove residency list only city names—often just Los Angeles—rather than the street addresses at which the applicant resided. These affidavits lack sufficient detail to show that the affiants had firsthand knowledge that the applicant resided continuously

in the United States from before January 1, 1982 through May 4, 1988. The letter from [REDACTED] lacks details concerning the frequency with which the applicant participated in services or other activities at the St. Neri Church, and it fails to indicate the origin of the information contained in the letter.

The applicant claims on his Form I-687 that he resided at [REDACTED] in Paramount, California from November 1987 to June 1988, a period during which he was not employed. The applicant also claims to have traveled to Mexico for a short period during this time. There is no independent evidence in the record of sufficient probative value demonstrating that the applicant resided at the aforementioned address during this time period.

The director correctly determined that the aforementioned documents and the other affidavits submitted by the applicant, which do not contain sufficiently specific information regarding the applicant's residences during the period of the affiants' acquaintance with him, are not adequate to meet the applicant's burden of proof.

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). 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 petition. *Id.* The applicant has failed to adequately explain the omissions and inconsistencies noted above, or to submit evidence of sufficient probative value to overcome doubts cast on his credibility and otherwise meet his burden of proof.

It is also noted that the applicant indicated on his Form I-485 and at his interview that he had been arrested for driving under the influence of alcohol and without a license in Compton, California in 1984 or 1985. The director issued the applicant a request for further evidence seeking the court disposition for this arrest, but it appears that the applicant failed to submit it.

As the applicant has not submitted sufficient credible evidence of residency, he therefore has not met his burden of proof in showing that he had continuously resided in the United States in an unlawful status from before January 1, 1982 through May 4, 1988. Accordingly, the applicant has not established eligibility to adjust status to Legal Permanent Resident status under section 1104 of the LIFE Act.

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