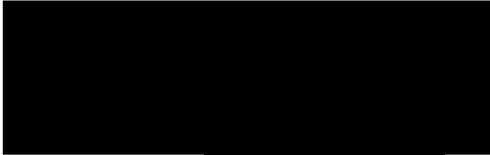


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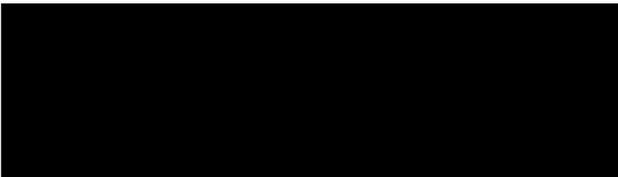
Office: CHICAGO

Date:

IN RE: Applicant: 

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, Chicago, Illinois, 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 since before January 1, 1982 through May 4, 1988.

On appeal, counsel asserts that the "facts of [this] case . . . have apparently either been forgotten by the Service or brushed aside in an effort to find a reason to deny this case." Counsel states that the director did not address any deficiencies in the applicant's evidence or question its veracity, and that the applicant has met his burden of proof. 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).

On a form to determine class membership, which he signed under penalty of perjury on August 4, 1990, the applicant stated that he first entered the United States in December 1981, when he was 13 years of age. The applicant stated on his Form I-687, Application for Status as a Temporary Resident, which he also signed under penalty of perjury on August 4, 1990, that his only absence from the United States during the qualifying period was from December 10, 1987 to January 1, 1988 when he traveled to Mexico

to visit his parents. The applicant also stated that he lived at [REDACTED] in Evanston, Illinois during the qualifying period and worked for Family Pride Coin Laundries in Chicago from 1982 to 1986, and thereafter at MarbleCast Products, Inc.

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 July 31, 1990 sworn statement from [REDACTED], in which he stated that the applicant had lived with him at [REDACTED] in Evanston, Illinois since December 27, 1981.
2. An August 2, 1990 letter signed by the president (name illegible) of the Family Pride Coin Laundries and by [REDACTED] (position in company unknown), in which they stated that the applicant worked for the company from 1982 to 1986. The letter does not indicate the source of the information regarding the applicant's employment or the applicant's address at the time of his employment. 8 C.F.R. § 245a.2(d)(3)(i).
3. A July 24, 1990 sworn statement from [REDACTED], manager of El Original Supermercado Cardenas, in which he certified that the applicant had been a customer of the store since 1982. [REDACTED] did not state how he dated the applicant's patronage of the store.
4. A July 26, 1990 sworn letter from [REDACTED], president of MarbleCast Products, Inc., in which he stated that the company had employed [REDACTED] since October 20, 1986, and that [REDACTED] was also known by the name of [REDACTED] which is the applicant's name. In a July 9, 1990 sworn statement, [REDACTED] stated that the information regarding the applicant's employment was taken from company records.
5. Copies of Forms W-2, Wage and Tax Statements, issued to [REDACTED] by MarbleCast, Products, Inc. for the years 1986 through 1988. The applicant also submitted copies of Forms 1040A or 1040, U.S. Individual Income Tax Returns, for the corresponding years. We note that on his Form I-485, Application to Register Permanent Resident or Adjust Status, and on his Form G325A, Biographic Information, the applicant stated that he was not married and had never been married. On his Form I-485 application, the applicant also stated that he had no children. However, each of the income tax returns indicate that they are joint returns for [REDACTED] and [REDACTED] and indicate that the couple has several children that they claim as dependents. The names of the children are the same as those listed by the applicant on his Form I-687 as his brothers and sisters, and the names of the filers of the tax returns are the same as the applicant's mother and father. This raises the question as to the identity of the employee of MarbleCast Products, Inc. and the alleged filers of the income tax returns. 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. 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 application. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988).

6. A July 27, 1990 sworn statement from [REDACTED], in which he stated that the applicant was out of the United States from December 10, 1987 until January 1, 1988. [REDACTED] stated that his knowledge of the applicant's absence was based on the fact that they worked together.

The record does not sufficiently establish that the applicant is also the [REDACTED] that was employed by MarbleCast Products, Inc. Further, the employment verification letter from Family Pride Coin Laundries is deficient as it does not provide the information required by 8 C.F.R. § 245a.2(d)(3)(i). The applicant submitted no credible contemporaneous evidence of his presence and residency in the United States during the qualifying period. Accordingly, given this and the unresolved inconsistencies in the record, 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.