



U.S. Citizenship
and Immigration
Services

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PUBLIC COPY



FILE: [REDACTED]
MSC 02 155 63761

Office: LOS ANGELES

Date: FEB 27 2007

L2

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. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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 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 submitted additional documentation that he states proves that he has lived in the United States since 1981.

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).

The applicant stated on a form to determine class membership that he first arrived in the United States in May 1981, when he entered without inspection. On this form and on his Form I-687, Application for Status as a Temporary Resident, which he signed under penalty of perjury, the applicant stated that he was absent from the United States only once during the qualifying period, from December 1987 to January 1988. In an August 11, 2004 sworn statement, the applicant repeated his statements regarding his initial entry and his sole exit from the United States. However, in a June 2, 1991 supporting affidavit, [REDACTED] stated that the applicant was absent from the United States from March to April 1988

when he traveled to Mexico to visit his family. 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).

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

1. An April 9, 2004 sworn letter from [REDACTED], in which he stated that he and the applicant were from the same small town in Mexico, and that the applicant lived with him at [REDACTED] when he arrived in the United States in 1981. The applicant submitted no documentary evidence to corroborate that either he or [REDACTED] lived at the address during the period stated.
2. A February 10, 2004 sworn statement from [REDACTED], in which he stated that he has known the applicant since December 1981. [REDACTED] did not indicate the circumstances surrounding, or how he dated, his initial acquaintance with the applicant.
3. A December 22, 2001 receipt from Earring Corner with the applicant's name. However, the date and name appear to have been written over, and it is not clear whether the document reflects the initial entries that appeared on the document.
4. A July 10, 1991 affidavit from [REDACTED], confirming the applicant's residences as he listed them on his Form I-687 application. However, [REDACTED] indicated that the applicant began living at [REDACTED] in May 1981 instead of December 1981, as claimed by the applicant on his Form I-687 application.
5. An April 13, 2004 sworn statement from [REDACTED] in which she stated that she met the applicant in 1982 when he visited friends in her apartment building.
6. Receipts dated in 1981, 1982 and 1983 with the applicant's name. However, the receipts do not show a vendor, vendor's address, or an address for the applicant. A receipt from Plusko's Canoga Park Bakery is illegible. Thus, these receipts are of no probative value in establishing the applicant's presence and residency in the United States during the qualifying period.
7. Envelopes with canceled postmarks dated in 1985. The envelopes are addressed to the applicant at [REDACTED] in Northridge, California. The applicant did not allege that he had ever lived at this address. *Matter of Ho*, 19 I&N Dec. at 591-92. An envelope with a 1984 canceled postmark is addressed to [REDACTED] at the same address; however, the applicant submitted no documentation indicating that he and [REDACTED] are the same person. Copies of other envelopes do not contain legible postmark dates.
8. An undated statement from [REDACTED] in which he stated that he has known the applicant since 1985, when they worked together at El Torito Restaurant.
9. Copies of pay stubs for the applicant dated from September 1986 through November 1987. The documents do not reflect an employer, and the dates do not correspond to a specific employer as identified by the applicant on his Form I-687 application.

10. A December 10, 2003 letter from [REDACTED], food services supervisor at the University Student Union, Inc., California State University, Northridge. [REDACTED] stated that the applicant began working as a temporary employee with Village Square in 1987 and, after his promotion, worked at the University Club until 1997, when the university started verifying social security numbers. In a December 9, 2003 letter, [REDACTED] stated that she has known the applicant since 1981, and that he is her "good friend." The record does not contain any corroborating documents, such as pay stubs or verified work schedules, confirming the applicant's employment with the University Student Union, Inc., and the applicant did not identify this organization as one of his employers on his Form I-687 application.
11. A November 11, 1988 letter from [REDACTED], vice president of Valley Insured Pre-Sort, Inc., verifying that the applicant had worked as a mail-sorting clerk for the company for the past three years. The applicant stated on his Form I-687 application that he began working for the company in May 1988.
12. A 1986 California identification card issued to the applicant.
13. Copies of pay slips from [REDACTED]. Stead for [REDACTED] for pay periods ending June 22 and July 6, 1986. The applicant submitted no documentation that he and [REDACTED] are the same person, and did not list [REDACTED] as an employer on his Form I-687 application.
14. Copies of the applicant's May 1987 pay stubs from JEM Sportswear, Inc. We note that the applicant did not list this company as an employer during 1987.
15. An envelope addressed to the applicant in the United States, with a canceled postmark dated August 1987.
16. Pay stubs from El Torito Restaurants, Inc. for [REDACTED] for pay periods ending February 8 and March 7, 1988.
17. A 1988 Form W-2, Wage and Tax Statement, from Greyhound Food Management, Inc., and an unsigned Form 1040, U.S. Individual Income Tax Return, for the year 1988.

The applicant also submitted a copy of a May 2, 2004 letter SSA-L191 from the Social Security Administration, which reflected that social security earnings had been reported for the applicant from the following companies: El Torito Restaurants in 1987 and 1988, JEM Sportswear, Inc. in 1987; Gold Coast Pre-Sort, Inc. Prisner & Company in 1987 and 1988, and Restarua, Inc. (which appears to be Greyhound Food Management, Inc.) in 1988 and 1989.

The applicant submitted employment affidavits allegedly attesting to his employment with El Torito Restaurant from September 1984 to August 1987, Greyhound "Foon" Management, Inc.¹ from August 1987 to May 1988, and Valley Insured Pre-Sort from May 1988 to September 1989. However, a [REDACTED] signed all of these documents. The record does not indicate who [REDACTED] is, or his knowledge of the applicant or the applicant's employment history.

¹ This misspelling also occurs on the applicant's I-687 application.

Given the inconsistencies, inaccuracies, and vagueness in the documentation submitted by the applicant, it is concluded that he has failed to establish by a preponderance of the evidence that he resided continuously in the U.S. for the required period.

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