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U.S. Citizenship
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FILE: [Redacted]
MSC 02 113 62688

Office: LOS ANGELES

Date: JAN 0

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.


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 district 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 he has submitted sufficient documentation establishing continuous residence in the United States from prior to January 1, 1982 through May 4, 1988.

It is noted that the director, in denying the application, did not address the evidence in response to the Notice of Intent to Deny, and did not set forth the specific reasons for the denial pursuant to 8 C.F.R. § 103.3(a)(1)(i). As such, the documentation submitted throughout the application process will be considered on 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. 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 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.

Although the 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. *See* 8 C.F.R. § 245a.2(d)(3)(vi)(L).

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:

- Photocopies of rent receipts issued in 1982 listing the applicant's address at [REDACTED]
- A statement dated February 18, 1988 from [REDACTED] who indicated that he has known the applicant since 1983 and attested to the applicant's [REDACTED] residence at [REDACTED]
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- A letter dated February 20, 1988 and two photocopied rent receipts dated in 1984 and 1985 from [REDACTED] resident manager in Torrance, California, who attested to the applicant's residence since 1984 at [REDACTED]
- An affidavit notarized March 7, 1988 from [REDACTED] of Torrance, California who indicated that the applicant resided with him from April 1981 to November 1982. The affiant asserted, "[h]is father left him with me. I supported him during that time."
- A statement dated March 13, 1988 from [REDACTED] of Torrance, California, who indicated that the applicant was in his employ as a gardener from July 1983 to December 1986.
- A receipt dated in 1984 which listed the applicant's name and address at [REDACTED]
- A medical receipt dated November 13, 1985 from Dr. [REDACTED] in Wilmington, California.
- A medical receipt dated July 28, 1987 from [REDACTED] in Perris, California.
- A 1986 Form 1099-MISC, from [REDACTED] Janitorial Services, which listed the applicant's [REDACTED] address at [REDACTED]
- An earnings statement dated November 11, 1982 from [REDACTED] in Los Angeles, California.

On October 13, 2004, the director issued a Notice of Intent to Deny, advising the applicant that the affidavits submitted did not contain sufficient information and corroborative evidence. Likewise, the receipts did not demonstrate residence during the period in question and the applicant did not claim on his Form I-687 application, employment with [REDACTED] Janitorial Service. The applicant was also informed that at the time of his interview he stated that he did not receive his wages by check until 1987. The applicant was given 30 days in which to explain the discrepancies or submit a rebuttal to the adverse evidence. The applicant, in response, asserted that he has been in the United States for over 20 years and have presented sufficient proof of his residence since 1981. The applicant provided copies of the documents previously submitted.

The AAO does not view the documents discussed above as substantive enough to support a finding that the applicant entered and began residing in the United States before January 1, 1982. The applicant has put forth inconsistent and contradicting information for which no explanation has been provided and, therefore, has undermined his credibility. Specifically:

1. The statements from [REDACTED] and [REDACTED] has no evidentiary weight or probative value as the affiants failed to provide a telephone number or address and, therefore, the affidavits are not amenable to verification by the Citizenship and Immigration Services. In addition, the application did not claim on his Form I-687 application residence at [REDACTED] during the requisite period. It is noted that the applicant claimed residence at [REDACTED] from July 1987 to March 1989.
2. The applicant provided photocopies of several earnings statements from [REDACTED] Inc. [REDACTED] Inc., and [REDACTED] and & [REDACTED]. The earning statements, however, have no probative value or evidentiary weight as they do not list the applicant's name and the issuing date. The applicant has not provided employment letters from the entities to corroborate the earnings statements and his claim on his Form I-687 application.
3. The applicant provided photocopies of a money order receipt and a receipt dated January 13, 1983 listing the name [REDACTED]. The receipts, however, have no probative value or evidentiary weight as they do not list the applicant's actual name
4. The applicant provided a 1983 utility statement for residence at [REDACTED]. This statement has no probative value or evidentiary weight as it did not list the applicant's name and the applicant did not claim on his Form I-687 application residence at this address during the requisite period.
5. The applicant did not address the adverse evidence regarding the earnings statement from [REDACTED]. It is noted that the applicant claimed to have been supported by his uncle from September 1981 to November 1982.

Doubt cast on any aspect of an applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence. It is incumbent upon an applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I. & N. Dec. 582 (BIA 1988).

Given the credibility issues arising from the documentation provided by the applicant, it is determined that the applicant has not met his burden of proof. The applicant has not established, by a preponderance of the evidence, that he entered the United States before January 1, 1982 and resided in this country in an unlawful status continuously from before January 1, 1982 through May 4, 1988, as required under 1104(c)(2)(B)(i) of the LIFE Act and 8 C.F.R. § 245a.11(b). Given this, the applicant is ineligible for permanent resident status under section 1104 of the LIFE Act.

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