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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
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U.S. Citizenship
and Immigration
Services

L2

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FILE: [REDACTED] Office: LOS ANGELES Date: JAN 26 2007
MSC 02 204 61811

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 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 asserts that he has submitted sufficient documentation to overcome the grounds for denial set forth in the director's Notice of Intent to Deny (NOID) issued on September 30, 2004 to establish continuous residence in the United States from prior to January 1, 1982 through May 4, 1988. The applicant submits copies of previously submitted documentation 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 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).

On a form to determine class membership, which he signed under penalty of perjury, and again in a declaration dated April 20, 2002, the applicant stated that he first came to the United States in August 1981. On his Form I-687, Application for Status as a Temporary Resident, which he signed under penalty of perjury on April 10, 1990, the applicant stated that he had left the United States only once during the qualifying period, from October 15 to November 17, 1987, to visit his parents in El Salvador.

The applicant also stated on his Form I-687 application that he worked as a self-employed laborer from August 1981 to March 1986, and for the [REDACTED] in housekeeping from March 1986 until the date of the Form I-687 application. The applicant also indicated that he was unmarried and had one son born in El Salvador on April 27, 1981 and a daughter born in the United States on April 1, 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 Forms W-2, Wage and Tax Statement, for the years 1981, 1982 and 1983, issued to the applicant by [REDACTED] Company, and reflecting wages of approximately \$365, \$635 and \$298, respectively. The wages were reported under a different social security number than that currently used by the applicant. These wages were verified by the Social Security Administration in a letter dated November 16, 2003, reporting them under the social security number presently used by the applicant. We note that the applicant stated on his Form I-687 that he had been self-employed during this time frame, and he submitted no other documentation regarding his work activities during this time.
2. A November 3, 2003 affidavit from [REDACTED] in which he stated that the applicant has resided in Reseda, California since August 1981 and that he has known the applicant as a neighbor.
3. A November 3, 2003 affidavit from [REDACTED] in which he stated that he can attest that the applicant has lived in Reseda since September 1981, as they met at a party when the applicant first arrived in the United States.
4. A November 5, 2003 affidavit from [REDACTED] in which she stated that she met the applicant in 1981, and that they have seen each other continuously since that time.
5. Copies of two envelopes bearing canceled El Salvadoran postmarks in September 1987, which are addressed to the applicant at [REDACTED]

The record also contains two Forms W-2 for 1988 issued by [REDACTED] [REDACTED]. These Forms W-2 were issued to [REDACTED] at an address in Redlands, California. The record also contains a 1988 Form 1040A, U.S. Individual Income Tax Return, for [REDACTED]. The applicant did not claim to have worked under an alias and did not indicate that he had ever lived in Redlands, California. The applicant submitted no documentation to support his claim that he worked at [REDACTED] from March 1986 until the date of his Form I-687 application in 1990.

The district office issued the applicant a Form I-72 on November 7, 2003, requesting that he submit a Social Security Earnings for all of the years that he worked in the United States. In response, the applicant submitted the statement discussed above, reflecting earnings only for the years 1981 through 1983.

Additionally, on his Form I-485, Application to Register Permanent Resident or Adjust Status, the applicant stated that he had daughters born in El Salvador in November 1982 and April 1985. During the course of his LIFE Act adjustment interview on November 7, 2003, the applicant denied that his wife had visited him in the United States. When questioned about this inconsistency, the applicant executed a sworn statement in which he stated that he had been out of the United States for three weeks in 1984 and

1987. However, this statement does not resolve the inconsistency regarding his daughter's birth in 1982. 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).

On appeal, as he did in response to the NOID, the applicant submits a December 12, 1991 policy memorandum signed by the Assistant Center Director for the Western Service Center, in which he states that "[a] single, verifiable affidavit can serve as sole evidence of residence, providing there is no apposing evidence." Nonetheless, the record raises inconsistencies in the applicant's claims and casts doubt on the affiants who state that the applicant has resided continuously in the United States since 1981. Specifically, we note that the applicant submitted no contemporaneous evidence of his presence in the United States from 1984 through 1988. The envelopes addressed to the applicant in 1987 are evidence only of presence in the United States during September 1987. Although he claimed to have been employed from 1986 to the date of the Form I-687 application, the applicant submitted no evidence of such employment and, although requested to do so in a request for evidence, submitted no evidence of Social Security earnings for that period.

Given the absence of any contemporaneous documentation 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.