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**U.S. Citizenship  
and Immigration  
Services**

L2

FILE:

MSC 02 190 64019

Office: CHICAGO

Date:

JAN 29 2007

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 remanded by the Administrative Appeals Office (AAO). The matter is before the 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, counsel asserts that the applicant has submitted sufficient documentation establishing continuous residence in the United States from prior to January 1, 1982 through May 4, 1988.

On June 1, 2004, the AAO remanded the case for inclusion of the complete Notice of Intent to Deny and Notice of Decision. The director complied with the remand notice and case was forwarded back to the AAO for review.

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:

- An affidavit notarized December 22, 1992 from [REDACTED] proprietor of [REDACTED] Auto Repair in Chicago, Illinois, who attested to the applicant's employment under the alias [REDACTED] as a mechanic from November 28, 1981 to September 13, 1985.
- An affidavit notarized May 21, 1992 from [REDACTED] of Chicago, Illinois, who indicated that he has known the applicant since 1985. Mr. [REDACTED] asserted that the applicant has worked on his vehicle on several occasions.
- An affidavit notarized May 22, 1991 from [REDACTED] of Chicago, Illinois, who indicated that the applicant and [REDACTED] were one and the same person. Mr. [REDACTED] asserted that he was a co-worker of the applicant and became close friends.
- An affidavit notarized April 30, 2003 from [REDACTED] of Chicago, Illinois, who indicated that the applicant and [REDACTED] were one and the same person. Ms. [REDACTED] asserted that she has known the applicant since May 1982 as she was a co-worker of the applicant at [REDACTED] Company.
- A letter dated April 29, 2003 from [REDACTED] assistant principal of [REDACTED] Elementary School in Chicago, Illinois, who indicated that she has known the applicant since 1981. Ms. [REDACTED] asserted at that time, the applicant was seeking a transfer to attend Pilsen Community Academy, but was not accepted. Ms. [REDACTED] asserted that over the years she has remained in contact with the applicant's family.
- An affidavit notarized dated April 26, 2003 from [REDACTED] of Hoffman Estates, Illinois, who indicated that she has known the applicant since January 1983 as he used to repair her vehicle.
- An affidavit notarized April 21, 2003 from [REDACTED] of Chicago, Illinois, who indicated that he has personally known the applicant since September 1981. Mr. [REDACTED] asserted that he is a friend of the applicant's father and invited the applicant to his home upon his arrival in the United States. Mr. [REDACTED] asserted that he regularly visits the applicant's family home on weekends and holidays.
- A letter dated April 24, 2003 from Father [REDACTED], pastor of [REDACTED] Church in Chicago, Illinois, who indicated that the applicant was a parishioner of [REDACTED] from 1981 to 1986, and attested to the applicant's residence at [REDACTED] during this time.
- A letter dated April 21, 2003 from Father [REDACTED], pastor of St. [REDACTED] in Chicago, Illinois, who indicated that the applicant was a parishioner of [REDACTED] from 1981 to 1985.
- An affidavit notarized April 21, 2003 from [REDACTED] of Hanover Park, Illinois, who indicated that she has known the applicant since December 1981. Ms. [REDACTED] asserted that the applicant was assisting her mechanic with the repairs to her vehicle.
- An affidavit notarized April 19, 2003 from [REDACTED] and [REDACTED] who indicated that they met the applicant at a Thanksgiving party in 1981.

- An affidavit notarized April 22, 2003 from [REDACTED] of Chicago, Illinois, who indicated that he has been a friend of the applicant and his family since 1981. Mr. [REDACTED] asserted that in 1981 and 1982, the applicant “use to help me do mechanic side jobs.”

The applicant has presented additional contradictory and inconsistent documents, which along with the documents discussed above undermines his credibility. Specifically

1. In an attempt to establish residence and presence in the United States during the requisite period, the applicant submitted employment letters from New York Carpet World and [REDACTED] Inc.; a letter dated November 6, 1991, from [REDACTED] manager of [REDACTED] Chicago, Illinois; affidavits from acquaintances; a bill from The [REDACTED] Inc. dated October 11, 1988; a Bill of Sale from Berns Auto Sales dated January 6, 1987; an insurance premium document from Magnum Insurance Agency dated February 3, 1987; an odometer statement dated January 6, 1987; receipts from various entities; and documentation from the Illinois Department of Revenue dated January 6, 1987. However, none of these documents have any probative value or evidentiary weight as they referred to an individual named [REDACTED]

The applicant has no submitted any evidence from New York Carpet World and [REDACTED] Inc., establishing that he and [REDACTED] are one and the same person. In addition, the documents from the Illinois Department of Revenue, Magnum Insurance Agency, [REDACTED] Auto Sales, the odometer statement and the letter from [REDACTED] all attest to the applicant’s residence at [REDACTED] Chicago, Illinois. The applicant, however, on his Form I-687 application claimed to have resided at this address commencing in May 1989.

2. Mr. [REDACTED] attests to the applicant’s employment from November 28, 1981 to September 13, 1985. However, on his Form I-687 application, the applicant claimed his employment at [REDACTED] Auto Repair commenced in February 1982. It is noted that the record contains an unsigned letter dated November 4, 1991 from [REDACTED] Auto Repair, which indicated the applicant’s employment commenced in February 1982.
3. The applicant submitted copies of his father’s 1981 wage and tax statement and income tax return, which listed the applicant’s name as a dependent residing in the home of his father. The 1981 income tax return has little evidentiary weight or probative value as it was not certified as being filed.
4. The applicant submitted a letter from [REDACTED] of [REDACTED] Inc., in Chicago, Illinois. Mr. [REDACTED] attested to the applicant’s employment as a carpet installer, working 40 hours a week from September 1984 to June 1989. The applicant, however, did not claim this employment on his Form I-687 application. It is implausible for the applicant to have worked a 40-hour week at [REDACTED] Inc, in addition to having worked at [REDACTED] Auto Repair.
5. Mr. [REDACTED] claims to have been a co-worker of the applicant and attested to the applicant’s alias, but did not provide: 1) the name of the company they allegedly worked together; 2) the applicant’s address during the period in question; or 3) any details as to the nature of their interaction in subsequent years.

6. Except for Father [REDACTED], the remaining affiants all claimed to have known the applicant at some point during the requisite period, but provide no address for the applicant, and no detail regarding the nature or origin of their relationships with the applicant or the basis for their continuing awareness of the applicant's residence

The applicant does not provide a plausible explanation for these contradictions and inconsistencies. Therefore, it is determined that these documents are not plausible, credible, and consistent both internally and with the other evidence of record. Further, these factors raise questions about the authenticity of the remaining documents the applicant has presented in attempt to continuous residence in the United States prior to January 1, 1982 through May 4, 1988. As such, the AAO does not view the documents as substantive enough to support a finding that the applicant continuously resided in the United States since before January 1, 1982 through May 4, 1988.

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).

The regulation at 8 C.F.R. § 245a.12(e) provides that “[a]n alien applying for adjustment of status under [section 1104 of the LIFE Act] has the burden of proving by a preponderance of the evidence that he or she has resided in the United States for the requisite periods.” Preponderance of the evidence is defined as “evidence which as a whole shows that the fact sought to be proved is more probable than not.” Black’s Law Dictionary 1064 (5<sup>th</sup> ed. 1979). See *Matter of Lemhammad*, 20 I&N Dec. 316, 320, Note 5 (BIA 1991). Given the contradicting information, absence of a plausible explanation along with the absence of contemporaneous documentation, the AAO determines 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 since that time through May 4, 1988, as required under 1104(c)(2)(B)(i) of the LIFE Act and 8 C.F.R. § 245a.11(b).

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