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U.S. Department of Homeland Security  
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Washington, DC 20529



U.S. Citizenship  
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Services

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FILE:

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Office: CHICAGO

Date: MAR 06 2007

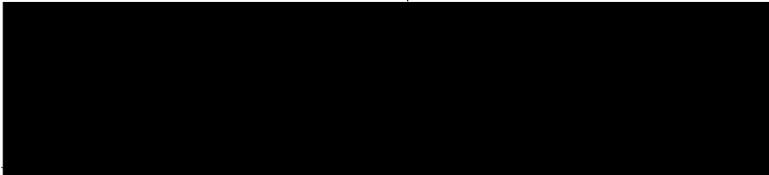
IN RE:

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:



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 applicant has submitted substantial evidence to meet his burden of proof in this case. Counsel submits a brief in support of the appeal.<sup>1</sup>

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).

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<sup>1</sup> Counsel initially submitted a Form I-290B, Notice of Appeal to the Administrative Appeals Unit (AAO). Counsel subsequently submitted a Form I-694, Notice of Appeal of Decision Under Section 210 or 245A of the Immigration and Nationality Act. Counsel asserted that the appeal was untimely filed because the district office misinformed the applicant about the proper appeals form to use. However, the applicant was properly notified that his appeal to the AAO was to be submitted on the Form I-290B, and the appeal was timely filed.

In an affidavit to determine class membership, which he signed under penalty of perjury on March 15, 1990, the applicant stated that he first arrived in the United States in October 1980. On his Form I-687, Application for Status as a Temporary Resident, the applicant stated that he lived at [REDACTED] in Chicago, Illinois from November 1980 to April 1988, and at [REDACTED] in Chicago from May 1988 to August 1989. The applicant also stated that he worked at Pentagon Industries from December 1980 to November 1987, and at A.M. Convenient from November 1987 until the date of his Form I-687 application.

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 August 29, 2004 affidavit from [REDACTED] in which he stated that the applicant is a family friend and that they met at a function in Chicago in 1981. Mr. [REDACTED] did not name the function and did not state how he dated this meeting with the applicant.
2. A September 6, 2004 affidavit from [REDACTED], in which he stated that he met the applicant at a family gathering in Chicago in 1981. Mr. [REDACTED] did not state his relationship with the applicant.
3. An August 21, 2004 statement from [REDACTED], chairman of religious affairs for the Islamic Society of Northwest Suburbs of Chicago, in which he certified that he has known the applicant for the past 24 years, and that the applicant had been attending Friday prayers at the community center since 1981. Mr. [REDACTED] did not indicate the circumstances surrounding his initial acquaintance with the applicant. Additionally, his statement does not indicate the source that he relied upon for the information regarding the applicant's attendance at the center and does not indicate the applicant's address at the time of his attendance at the center. 8 C.F.R. § 245a.2(d)(3)(v).
4. A November 2, 2002 affidavit from [REDACTED], in which he stated that he met the applicant in August 1981 at a celebration of India's Independence Day. The affiant did not indicate where this meeting took place.
5. A November 1, 2002 affidavit from [REDACTED] in which he stated that he is an employee of Burns International Security and that the applicant approached him in January 1981 seeking employment. The affiant did not state how he dated this interview with the applicant or provide any other details regarding his knowledge of the applicant's residency in the United States during the qualifying period.
6. An undated letter from [REDACTED] general manager of Pentagon Industries, in which he stated that the applicant was employed by the company as a marketing assistant from November 1980 to December 1987. 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. *Id.* The applicant submitted no documentation such as canceled pay checks, pay stubs, Social Security earnings statement, or other documentary evidence to corroborate his employment with the company.

On appeal, counsel states that, as is typical with most illegal immigrants:

[The applicant] work[ed] for cash and liv[ed] by cash. He lived with friends through most of this time in order to cut on expenses. He didn't have any utilities, because he never

leased an apartment under his name and owing to his status would not be allowed to sign up [sic] for utility services under his name.

He also had no health insurance because he was working for cash and as such paid cash to any doctors he may have seen. And like most immigrants he never went to the doctor. Not because he was never sick, but rather because he wanted to save money. The three or four times he went to the doctor's office were for minor items, unfortunately, they were so long ago that he doesn't even remember where he went.

None of these statements by counsel are supported by evidence in the record. Without documentary evidence to support the claim, the assertions of counsel will not satisfy the applicant's burden of proof. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). The applicant did not allege that he was paid in cash for his services or that he lived with others during the qualifying period. The applicant submitted no verification of his living arrangements at any time during the qualifying period, and submitted no contemporaneous documentation of his presence and residency in the United States during the prescribed period.

Given the absence of any contemporaneous documentation, the vagueness of the supporting statements, and the lack of corroborative documentation, 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.