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



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] MSC 02 016 64534

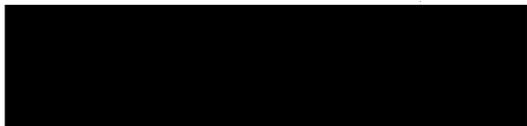
Office: LOS ANGELES

Date: MAR 12 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, 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. Section 1104(c)(2)(B) of the LIFE Act; 8 C.F.R. § 245a.11(b).

On appeal, counsel states that the applicant believes that he has submitted sufficient evidence to establish his eligibility under the LIFE Act. Counsel submits copies of previously submitted documentation in support of the appeal.

It is noted that the director, in denying the application, did not address the evidence furnished initially, and 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.

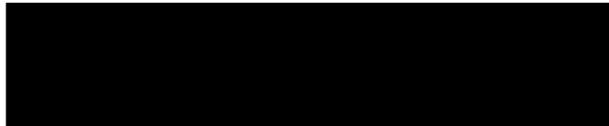
Even if the director has some doubt as to the truth, if the applicant submits relevant, probative, and credible evidence that leads the director to believe that the claim is "probably true" or "more likely than not," the applicant or petitioner has satisfied the standard of proof. *See U.S. v. Cardozo-Fonseca*, 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 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).

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).

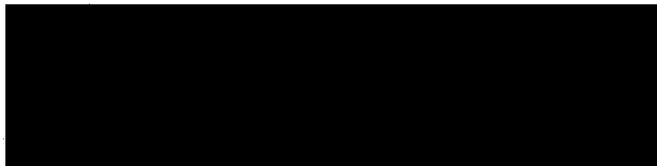
On a form to determine class membership and on his Form I-687, Application for Status as a Temporary Resident, which he signed under penalty of perjury on February 9, 1992, the applicant stated that he first entered the United States in April 1981. The applicant stated that his only absence from the United States during the qualifying period was from June 17 to July 10, 1987. The applicant stated that he lived at the following addresses during the requisite time frame:

May 1981 to October 1984
November 1984 to April 1985
April 1985 to April 1990



The applicant also stated that he worked at the following jobs and locations during the qualifying period:

May 1981 to October 1984
January 1985 to April 1985
April 1985 to April 1987
April 1987 to July 1989



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

1. A January 16, 1992 affidavit from [REDACTED], in which he stated that he employed the applicant from May 1981 to October 1984 as a helper on a truck. The affiant stated that he currently resided at [REDACTED] in Sugarland, Texas, and that was where he met the applicant and employed him. In a separate affidavit dated the same date, Mr. [REDACTED] stated that he was "doing business as [REDACTED]" and that he knows "for a fact" that the applicant had been residing in the United States since 1981. The applicant submitted no documentation to corroborate that [REDACTED] Moving Company existed and was doing business during the time period indicated, or that Mr. [REDACTED] lived and worked at the address stated.
2. A January 28, 1992 affidavit from [REDACTED], in which he stated that he met the applicant at a wedding in November 1984, and agreed that the applicant would live with him. The affiant stated that the applicant lived with him at [REDACTED] until April 1985.
3. A December 20, 1991 notarized statement from [REDACTED], in which he stated that he met the applicant during his visits to local Indian gatherings "in April 1985 to April 1990 that time he has been residing with me at my place of residence at [REDACTED] in the city of Bellflower." It is unclear from Mr. [REDACTED] statement as to the exact year that he met the applicant (his visits to the gatherings "in April 1985 to April 1990") and the exact year that the applicant began residing with him (whether in 1985 or 1990). Further, the applicant submitted no documentation to confirm that either he or Mr. [REDACTED] lived at the indicated address during the stated time frame.

4. A January 27, 1992 affidavit from [REDACTED], in which he stated that the applicant worked for him on a part-time basis from January 1985 to April 1985 and again from April 1987 to July 1989. Although Mr. [REDACTED] identified his position as manager, he did not state the employer or company for which he worked. The applicant submitted no corroborating documentation, such as pay stubs, pay slips, verified work schedules or similar documentary evidence, of his work with Mr. [REDACTED].
5. A January 23, 1992 affidavit from [REDACTED] in which he stated that he met the applicant many times in the Indian Temple during 1985 to April 1990 "at which time he came to live with my family until December 1990 at [REDACTED]."
6. A January 30, 1992 notarized declaration from [REDACTED], in which he stated that the applicant was his nephew and that the applicant visited him from the United States from June 17 to June 10, 1987.

The applicant submitted no documentation corroborating his self-employment from April 1985 to April 1987, and submitted no contemporaneous documentation of his presence and residency in the United States during the relevant period. In this instance, the applicant has submitted six affidavits and third-party statements attesting to her continuous residence in the U.S. during the period in question. Affidavits in certain cases can effectively meet the preponderance of evidence standard. However, in this instance the affidavits lack sufficient specificity and detail to find that it was more likely than not that the information provided establishes the applicant's presence and residency in the United States during the qualifying period.

Accordingly, 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.