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

L2

FILE:

MSC 02 207 61776

Office: CHICAGO

Date: MAY 11 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 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 states that that the director failed to state the criteria used in denying the application, and that “the refusal of the Service to state criteria is in fact arbitrary and capricious as well as in violation of Federal Law and Regulations.” Counsel submits a brief in support of the appeal.

Counsel asserts that the director failed to provide him with a copy of the Notice of Denial, and therefore denied the applicant “his right to have his attorney have a full appeal period to prepare this brief.” The record, however, reflects that the Notice of Denial was mailed to counsel at his address of record. The record contains a signed PS Form 3811, Domestic Return Receipt, acknowledging receipt of the notice.

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).

In an October 15, 1990 affidavit, which he signed under penalty of perjury, the applicant stated that he first entered the United States on August 10, 1981. On his Form I-687, Application for Status as a Temporary Resident, which he also signed under penalty of perjury on October 15, 1990, the applicant stated that during the qualifying period, he lived at the following addresses in Chicago: from August 1981 to August 1987 at [REDACTED], and from September 1987 to June 1989 at [REDACTED]. The applicant also stated that he worked at the following locations:

October 1981 to April 1985  
May 1985 to February 1986  
March 1986 to March 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. A March 24, 2002 notarized declaration from [REDACTED] in which he stated that the applicant had lived continuously in the United States from August 10, 1981. Mr. [REDACTED] stated that the applicant had been a friend for the past 25 years and had taught his children from August 10, 1986 to February 4, 1988. Although Mr. [REDACTED] stated that the applicant was a friend of his younger brother, he did not state the basis of his knowledge of the applicant's arrival in the United States.
2. A June 15, 2003 notarized statement from [REDACTED] in which he stated that he met the applicant in January 1982 at a prayer room in the [REDACTED].
3. A June 15, 2003 notarized statement from [REDACTED] in which she certified that her late husband had treated the applicant as a patient at [REDACTED] from 1982 to 1990. Mrs. [REDACTED] stated that she worked in billing at the clinic, and that the applicant visited her husband at least once a year. Mrs. [REDACTED] did not indicate the information that she relied upon in dating the applicant's treatment at the clinic, and the applicant submitted no documentation to verify his medical treatment during the qualifying period.
4. A June 23, 2003 notarized statement from [REDACTED] in which he certified that he met the applicant at the [REDACTED] in June 1984.
5. An undated statement from [REDACTED] in which he certified that he owned the [REDACTED] Restaurant from 1985 to 1986, and that the applicant worked there from May 5, 1985 to February 28, 1986. The record contains electric bills for [REDACTED] Restaurant in care of [REDACTED]. According to Mr. [REDACTED], he changed his name from [REDACTED] however, the applicant submitted no documentary evidence to establish that Mr. [REDACTED] and Mr. [REDACTED] are the same person, and submitted no documentary evidence to corroborate his employment at [REDACTED] Restaurant.
6. A February 17, 2003 notarized statement from [REDACTED] in which he certified that the applicant had been a regular customer at his store since 1986. Mr. [REDACTED] did not state how he dated the applicant's patronage at his store.
7. A March 25, 2002 notarized "affidavit" from [REDACTED] in which he stated that the applicant lived with him as his roommate from September 1987 to June 1989, at [REDACTED]. Mr. [REDACTED] stated that the applicant had been a family friend for the past 30 years.

8. An October 15, 1990 affidavit from Nusrat Ahmed, in which he stated that he “reasonably know[s]” the applicant, and that the applicant left the United States from October to November 1987. The affiant did not indicate how he knew the applicant or knew of his absence from the United States in 1987.

The applicant submitted no contemporaneous documentation of his presence and residency in the United States during the qualifying period. While affidavits in certain cases can effectively meet the preponderance of evidence standard, many of the affidavits and statements submitted by the applicant lack the details that form the basis of the writers’ knowledge of the applicant’s presence and residency in the United States. It is impossible to determine whether these individuals have independent knowledge of the applicant’s residency in the United States or whether the information they provide is based on hearsay. No evidence in the record confirms the statements of the writers.

Accordingly, the applicant has not established that it is more likely than not that he resided continuously in the United States for the prescribed period.

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