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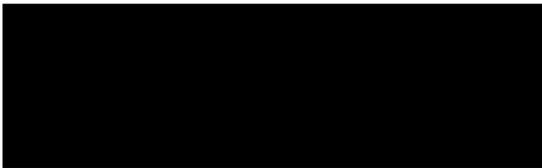
Applicant:



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, Dallas, Texas, and is now before the Administrative Appeals Office (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 the applicant submitted credible and verifiable evidence establishing his continuous unlawful presence in the United States during the requisite period.

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).

At the time of his LIFE interview, the applicant under oath, admitted in a sworn statement that he first entered the United States in February 1981 and departed the United States in July 1984 to obtain a student visa in Pakistan. The applicant indicated he returned to the United States in August 1984.

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

- An affidavit notarized July 12, 1987 from [REDACTED] in Houston, Texas, who attested to the applicant's residence in the United States since 1981.
- A copy of his Pakistani passport reflecting he entered the United States with an F-1 visa on August 21, 1984.
- An affidavit notarized July 15, 1987 from police officer [REDACTED] of Houston, Texas, who indicated that he has been personally acquainted with the applicant since March 1982. The affiant asserted that he used to patrol the area of the applicant's employment (Richwood Food Market) at 1810 Richmond Avenue, Houston, Texas. The affiant asserted that he is still a friend of the applicant. It is noted that the Citizenship and Immigration Services attempted to telephone the affiant at the phone number provided on his affidavit; however, it was disconnected.
- His daughter's February 12, 1987 birth certificate.
- A letter dated January 2, 1987 from [REDACTED] vice president of Richwood Houston, Inc. who attested to the applicant's employment as a cashier from February 1981 to July 1984 and since August 26, 1984.
- A letter dated April 8, 1987 from [REDACTED] manager of Richwood Houston, Inc., in Houston, Texas, who indicated that applicant was a tenant at [REDACTED] from February 1981 to August 1984.
- An affidavit notarized August 27, 1990 from [REDACTED] of Houston, Texas, who indicated the applicant resided with him at [REDACTED] Houston, Texas from February 1981 to August 1984.
- A bank statement from Omnibanc South, N.A. in Houston, Texas reflecting the applicant's balance during the periods July 3, 1986 through August 4, 1986 and November 26, 1986 through December 29, 1986.
- Several deposit tickets dated during October 1985, December 1986 and February 1987 from Omnibanc South N.A.
- An envelope postmarked October 18, 1987 and addressed to the applicant at [REDACTED] Houston, Texas.
- Envelopes postmarked October 19 and 27, 1984 and addressed to the applicant at [REDACTED] Houston, Texas.
- 1985 wage and tax statements from R.G.I.S. Inventory Specialists and University of Houston System.
- Photocopies of the applicant's personal checks dated January 28, 1987 and February 15, 1987
- Earnings statements for the periods ending during October 1986, November 1986, November 1987, December 1987, January 1987, February 1987, May 1987, and February 1988,
- 1986 wage and tax statements from Texas Southern University, Richwood Houston, Inc., and Quality Beverage Co. Inc.
- An apartment lease contract entered into on August December 30, 1985 for a period of six months commencing January 1, 1986 for residence at [REDACTED], Houston, Texas.
- An apartment inspection report dated December 31, 1985 from Vesteq Property Management.
- Several rental receipts dated September 4, 1984, October 4, 1984 and December 4, 1985 for residence at [REDACTED], Houston, Texas.
- A bank statement from Mac Gregor Park National Park in Houston Texas for the period October 2, 1985 to November 1, 1985.

- A social security printout from the Social Security Administration dated December 1, 2004, reflecting the applicant's earnings since 1985.

The applicant submitted: 1) several earnings statements from Duplex Products in Houston, Texas that did not list his name; and 2) a receipt from Master Car Care #1 and two envelopes with indecipherable postmarked dates. As such, these documents have no probative value or evidentiary weight.

The director, in denying the application, noted that: 1) a photocopy of the applicant's passport revealed that it was first issued in Pakistan on January 12, 1982; 2) [REDACTED] attested to the applicant's residence in the United States since 1981; however, the affiant resided in California while the applicant purportedly resided in Houston; and 3) the applicant neglected to list his daughter's May 1984 birth in Pakistan on his Form I-687 application. The director also noted that the record contains no evidence of the applicant's departure or being removed from the United States in 1984.

On appeal, counsel asserts, in part:

...appellant returned to Pakistan in July 1984 in order to obtain an F-1 student visa. He reentered with the student visa on August 21, 1984. Appellant also left the United States from July 1983 to August 1983 in order to get married, and in August 1988 for a fifteen day visit. Appellant's marriage in Pakistan in 1983 and his late date of arrival in the United States in 1988 are both revealed in his I-485 application and accompanying G-325s. The Appellant has never been removed from the United States.

Counsel asserts that obtaining documentation of presence and residence in the United States from 15 to 20 years ago is extremely difficult as many businesses and employers do not keep records after a period of time. Counsel contends that the documentation the applicant has presented clearly establishes by a preponderance of the evidence that he resided in the United States.

The statements of counsel on appeal regarding the amount and sufficiency of the applicant's evidence of residence, and the applicant's inability to produce additional evidence of residence for the period in question due to the passage of time have been considered. However, the evidence of record submitted does not establish with reasonable probability that the applicant was already in the United States before January 1, 1982 and that he was in a continuous unlawful status up to his *alleged re-entry* on August 21, 1984 as he has presented contradictory and inconsistent documents, which undermines his credibility. Specifically:

1. The applicant indicated on his Form G-325A, Biographic Information, that he was employed as a "Co-op teacher" at Karachi University in Pakistan from November 1980 to March 1982.
2. No explanation has been provided why the applicant failed to list his daughter's May 1984 birth in Pakistan and his alleged July 1983 departure from the United States on his Form I-687 application. The application specifically requests for the applicant to list each child and *all* absences from the United States since January 1, 1982.
3. [REDACTED] and [REDACTED] attested to the applicant's residence in the United States since 1981 and March 1982, respectively, but no attestations to the applicant actual residence in the United States were indicated, and neither affiant provided any details regarding the nature or origin of their relationships with the applicant or the basis for their continuing awareness of the applicant's residence.

4. [REDACTED] attested to the applicant's employment as a cashier at Richwood Houston, Inc. from February 1981 to July 1984. However, the applicant did not claim this employment on his Form I-687 application.
5. [REDACTED] and [REDACTED] attested to the applicant's Houston residence at [REDACTED] from February 1981 to August 1984. However, the applicant did not claim to have resided at this address on his Form I-687 application during this period.
6. The director's finding regarding the fact the applicant's passport was issued in January 1982 in Pakistan while he was allegedly residing in the United States has not been addressed.

These factors tend to establish that the applicant utilized documents in a fraudulent manner in an attempt to support his claim of residence in the United States during the requisite period. By engaging in such an action, the applicant has irreparably harmed his own credibility as well as the credibility of his claim of continuous residence in the United States for requisite period.

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 credibility issues arising from the documentation provided by the applicant, it is determined 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 from before January 1, 1982 through May 4, 1988, as required under 1104(c)(2)(B)(i) of the LIFE Act and 8 C.F.R. § 245a.11(b). Given this, the applicant is ineligible for permanent resident status under section 1104 of the LIFE Act.

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