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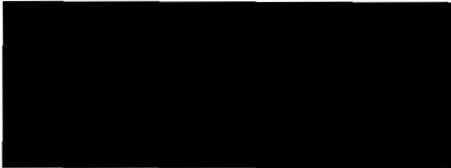
Office: NEW YORK

Date: NOV 28 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. If your appeal was sustained, or if the matter was remanded for further action, you will be contacted. If your appeal was dismissed, you no longer have a case pending before this office, and you are not entitled to file a motion to reopen or reconsider your case.

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, New York, New York, 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 failed to submit any evidence to demonstrate 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 evidence was submitted five (5) months earlier. Counsel also asserts that the Notice of Decision incorrectly states the date of the Notice of Intent to Deny.

Section 1104(c)(2)(B) of the LIFE Act states:

(i) In General – The alien must establish that the alien entered the United States before January 1, 1982, and that he or she has resided continuously in the United States in an unlawful status since such date and through May 4, 1988. In determining whether an alien maintained continuous unlawful residence in the United States for purposes of this subparagraph, the regulations prescribed by the Attorney General under section 245A(g) of the Immigration and Nationality Act (INA) that were most recently in effect before the date of the enactment of this Act shall apply.

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 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 issue in this proceeding is whether the applicant has submitted sufficient credible and verifiable evidence to 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. Here, the submitted evidence is not relevant, probative, and credible.

In a February 20, 2004, Notice of Intent to Deny, the director stated that the applicant was interviewed on February 19, 2004. During the interview, the applicant stated under oath that he left India by plane to Mexico on March 7, 1980. The applicant stated that he walked from Mexico to California, and resided at [REDACTED] California from March 1980 to December 1988. The director noted that the applicant failed to submit any evidence in support of his application. The applicant was granted thirty (30) days to submit evidence.

In a letter, dated March 19, 2004, counsel stated that the applicant already submitted the pertinent documents in support of his case. Counsel enclosed a one page copy of receipts and an affidavit of witness. In an August 26, 2005, Notice of Decision, the director denied the application because the office had not received any evidence from the applicant in support of his application. The Notice of Decision incorrectly stated the date of the applicant's Notice of Intent to Deny letter.

The record reflects that two documents were submitted as evidence: a one page copy of receipts and one affidavit of witness. The receipts contain no identifying information. They do not state the applicant's name or the applicant's residence. The receipts are not probative or credible forms of evidence to substantiate the instant application. The applicant also submitted a March 18, 2004, affidavit of witness by [REDACTED]. The affiant stated that the applicant resided in the United States from March 1980 to April 1990. The affiant stated that he met the applicant at the Sikh temple in March 1980 and they met each month until 1991. He also stated that the applicant worked with him as a helper from January 1986 to April 1991. Although not required, the affidavit does not include any supporting documentation of the affiant's identity or presence in the United States.

The record does not contain any contemporaneous evidence, or other sufficient credible evidence, to establish that the applicant resided in the United States prior to January 1, 1982. The absence of sufficiently detailed and consistent supporting documentation to corroborate the applicant's claim of continuous residence for the entire requisite period seriously detracts from the credibility of this claim. Pursuant to 8 C.F.R. § 245a.2(d)(5), the inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. Given the applicant's reliance upon documents with minimal probative value, it is concluded that he has failed to establish continuous residence in an unlawful status in the United States from prior to January 1, 1982 through May 4, 1988.

Therefore, the applicant has failed to establish that he resided in continuous unlawful status in the United States from before January 1, 1982 through May 4, 1988, as required under Section 1104(c)(2)(B) of the LIFE Act. Given this, he 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.