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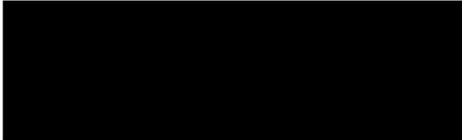
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE: [Redacted]
MSC 02 359 60373

Office: DALLAS

Date:

OCT 19 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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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 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 was denied due process because the director's decision ignored evidence other than the applicant's affidavits. Counsel stated on the Form I-290B, Notice of Appeal to the Administrative Appeals Unit, that a brief and/or additional evidence would be submitted to the AAO within thirty days of filing the appeal. However, in response to an inquiry by the AAO, counsel stated, by facsimile of September 10, 2007, that he submitted no additional documentation. Therefore, the record will be considered complete as presently constituted.

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 a September 9, 1990 affidavit, the applicant stated that he first arrived in the United States in June 1979 as a crewman. The applicant stated that he arrived through New York. In an affidavit to determine class membership, which he signed under penalty of perjury on October 26, 1990, the applicant stated that he

arrived in the United States in July 1979 pursuant to a D nonimmigrant crewman's visa. However, the applicant submitted no evidence of his arrival in 1979.

On his Form I-687, Application for Status as a Temporary Resident, which he signed under penalty of perjury on April 30, 1990, the applicant stated that he had worked in sales for [REDACTED] and Clothing in Miami, Florida since 1981. The applicant also stated that he lived at the following addresses in Miami, Florida during the qualifying period:

March 1980 to June 1984
November 1984 to March 1988

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 July 19, 1990 notarized statement from [REDACTED] in which she stated that she was the applicant's landlord, and verified that the applicant was a tenant at [REDACTED] from March 1980 to June 1984 and at [REDACTED] both in Miami. The applicant submitted no evidence, such as lease agreements, canceled checks, or rent receipts, to verify his tenancy in these locations. The applicant also submitted no evidence to corroborate that [REDACTED] was the landlord at these various locations.
2. A January 19, 1990 notarized letter from [REDACTED] in which he provided a "credit reference" for the applicant, stating that the applicant "has been a salesman representing my company for the past nine years, (since 1981)." The applicant submitted no documentation, such as a receipt, contract, or similar evidence, to corroborate any business relationship between [REDACTED] and himself. During a March 25, 2003 LIFE Act adjustment interview, the interviewing officer informed the applicant that CIS was unable to verify his employment with [REDACTED].
3. A November 17, 2003 notarized statement from [REDACTED] in which he stated that he became acquainted with the applicant in November 1981 in Chicago, when he introduced himself as a jewelry salesman. [REDACTED] stated that the applicant traveled to Chicago at least twice a year and stayed with him on his business trips.
4. A November 10, 2003 affidavit from [REDACTED] in which he stated that he known the applicant since June 1984, when the applicant traveled to New Jersey and introduced himself as a jewelry and clothes salesman. The affiant stated that the applicant traveled to New Jersey at least once a year, stayed with him on his visits, and that they became friends. The affiant further stated that from September 1987 through March 1988, the applicant lived with him in New Jersey and helped him to run a food court at a flea market. According to a note in the record, the affiant confirmed his statement, but admitted that he and the applicant had known each other in Pakistan.
5. An April 23, 2002 notarized statement from [REDACTED] in which he stated that he had been acquainted with the applicant and his wife "for the past 15+ years," and that the applicant's wife arrived in the United States in [REDACTED]. He further stated that the applicant and his family had been living in the United States since 1988.

Other evidence submitted by the applicant is subsequent to the qualifying period and therefore is not probative of his continuous residence in the United States during the required period.

According to the interviewer's notes of March 26, 2003, the applicant repeatedly denied that his wife had visited him in the United States or that he had returned to Pakistan to visit her. Yet he had children who were born in Pakistan in December 1981, March 1983, and August 1984. The applicant eventually recanted his statements and stated that he must have forgotten that his wife visited him in the United States.

In his March 21, 2005 letter accompanying the applicant's response to the director's Notice of Intent to Deny (NOID), dated February 16, 2005, counsel asserted that [REDACTED] statement confirmed that the applicant's wife visited the United States in the 1980's, and that the applicant's inability to provide evidence of her travels after twenty years was not his fault. We note, however, that the applicant initially specifically denied that his wife had visited him in the United States during periods when she could have become pregnant with children who were born in 1981, 1983 and 1984. Further, despite counsel's statement to the contrary, [REDACTED] does not provide corroborative evidence that the applicant's wife was in the United States prior to September 1988. Additionally, it is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the applicant submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). The applicant submitted no competent objective evidence to reconcile his statements that he and his wife did not have conjugal visits with his later statements that they did.

Counsel also asserted that the district office's inability to verify the applicant's employment with [REDACTED] was also not the fault of the applicant. Counsel asserted that [REDACTED] statement "was competent evidence when it was submitted" in 1990, and that the information in [REDACTED] statement is consistent with that of [REDACTED]. We note, however, that [REDACTED] merely confirmed that the applicant **introduced himself** as a jewelry and clothes salesman. Neither confirmed purchasing from the applicant or confirmed any other business involving selling clothes or jewelry by the applicant, and neither stated they had knowledge of the applicant's business relationship with [REDACTED].

Additionally, as noted by the director, the regulation at 8 C.F.R. § 245a.2(d) provides that "[a]ll documentation submitted will be subject to Service verification. Applications submitted with unverifiable documentation may be denied." The applicant made no attempt to provide the district office with any updated information regarding [REDACTED] or his business so that the information provided by [REDACTED] could be verified. Further, [REDACTED] letter did not provide the information required by 8 C.F.R. § 245a.2(d)(3)(i), which provides:

Letters from employers should be on employer letterhead stationery, if the employer has such stationery and must include:

- (A) Alien's address at the time of employment;
- (B) Exact period of employment;
- (C) Periods of layoff;
- (D) Duties with the company;
- (E) Whether or not the information was taken from official company records; and
- (F) Where records are located and whether the Service may have access to the records.

If the records are unavailable, an affidavit form-letter stating that the alien's employment records are unavailable and why such records are unavailable may be accepted in lieu of (3)(i)(E) and (3)(i)(F) of this paragraph.

did not reveal the source of the information that he relied upon in providing the information about the applicant's employment, thus making verification of his statement even more important. As discussed above, the applicant provided no other documentary evidence, such as his own business records, to corroborate his employment with

The applicant has provided only minimum evidence of his continuous residence in the United States and no contemporaneous documentation. Given this, the unresolved inconsistency regarding his children's births in Pakistan, and the inability of the district office to verify the applicant's employment information, it is concluded that the applicant has failed to establish by a preponderance of the evidence that he resided continuously in the United States for the required period.

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