

**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**



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

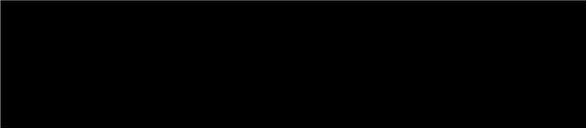
PUBLIC COPY



L2

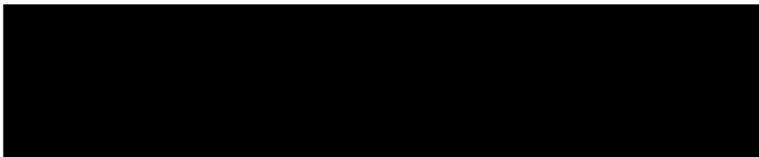
FILE:  Office: DALLAS
MSC 02 078 66584

Date: **SEP 12 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. 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 "R. 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 (AAO) on appeal. The appeal will be dismissed.

The district director denied the application because the applicant failed to demonstrate that he had continuously resided in the United States in an unlawful status from before January 1, 1982 through May 4, 1988. The applicant failed to provide credible and verifiable evidence of his presence during the requisite time period.

On appeal, counsel asserts that the applicant has submitted sufficient evidence to substantiate his claim of continuous unlawful residence in the United States from before January 1, 1982 through May 4, 1988. Counsel further asserts that the applicant has submitted many documents and affidavits, all of which are credible and verifiable.

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).

The regulation at 8 C.F.R. § 245a.2(d)(3)(i) states that letters from employers attesting to an applicant's employment must: provide the applicant's address at the time of employment; identify the exact period of employment; show periods of layoff; state the applicant's duties; declare whether the information was taken from company records; and identify the location of such company records and state whether such records are accessible or in the alternative state the reason why such records are unavailable.

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 order to establish entry into the United States prior to January 1, 1982, the applicant submitted a copy of a January 7, 1991 letter from Southwestern Bell Telephone signed by service representative [REDACTED]. [REDACTED] stated that the telephone account [REDACTED] was established on November 26, 1981. The account was billed and listed in the applicant's name. The applicant also submitted a copy of a January 27, 1991 letter from First City National Bank of Richmond signed by vice-president [REDACTED]. [REDACTED] certified that the applicant had a savings account [REDACTED] that was opened on September 11, 1981 and closed on May 15, 1988. The record reflects that the Service was unable to verify the letters.

The applicant submitted a January 7, 1991 letter from [REDACTED] signed by personnel manager [REDACTED]. [REDACTED] stated that [REDACTED] was employed from April 28, 1987 to May 20, 1987 as a labor employee. Other than the applicant's own statement that he used this alias, there is no evidence to connect the applicant to the above name. Regardless of whether or not the applicant used the above alias, the employment letter does not provide the applicant's address at the time of employment, declare whether the information was taken from company records, or identify the location of such company records and state whether such records are accessible as required by 8 C.F.R. § 245a.2(d)(3)(i).

The applicant submitted a November 18, 2002 sworn affidavit by [REDACTED]. [REDACTED] stated that the applicant had worked for Mobile Home City, Inc. since 1981. As required by 8 C.F.R. § 245a.2(d)(3)(i), the letter did not provide the applicant's address at the time of employment, identify the exact period of employment, show periods of layoff, state the applicant's duties, declare whether the information was taken from company records, and identify the location of such company records and state whether such records are accessible.

The applicant submitted a January 10, 1991 sworn affidavit of witness signed by [REDACTED]. [REDACTED] stated that she worked as a manager at Circle K and that she has known the applicant since 1981 when he was a customer. The applicant also submitted a January 25, 1991 sworn affidavit by [REDACTED]. [REDACTED] stated that he had known the applicant since February 1982. [REDACTED] further stated that the applicant was his neighbor and they would see each other approximately once every two weeks. Both affidavits failed to provide any direct, specific, and verifiable information relating to the applicant's residence in the United States for the period in question.

Finally, the applicant submitted a January 19, 1991 notarized letter from Jobs For Progress signed by job developer/counselor [REDACTED]. [REDACTED] stated that she had known the applicant since May 1984. [REDACTED] further states that the applicant had come to her office looking for employment, but the applicant did not have his legal documents for employment. This letter fails to establish that the applicant entered the United States prior to January 1, 1982.

Doubt cast on any aspect of the applicant's proof may undermine the reliability and sufficiency of the remaining evidence offered in support of the application or visa petition. *Matter of Ho*, 19 I&N Dec. at 591. In this case, the lack of details and verifiability above leads the AAO to conclude that the evidence of the applicant's claimed residency is not credible. Thus, 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 applicant has, therefore, 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.