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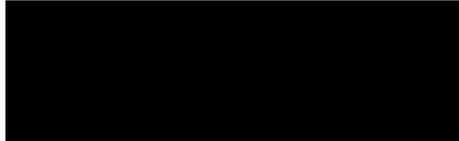
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
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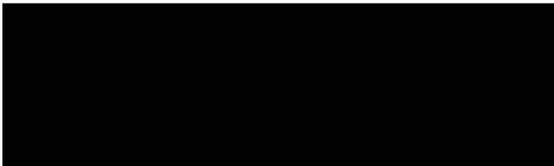
Applicant:



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. If your appeal was sustained, or if your case 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, New York, and is now before the Administrative Appeals Office 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 since before January 1, 1982 through May 4, 1988. Specifically, the director determined that the applicant had failed to submit sufficient evidence to establish his unlawful entry in to the United States as well as his residency during the requisite period.

On appeal, counsel states that the director did not give appropriate consideration to the evidence contained in the record, and requests reconsideration of the documentation submitted. No new evidence is submitted on appeal.

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).

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).

The AAO concurs with the director's finding that the applicant failed to submit sufficient evidence to establish continuous residence and physical presence in the United States since before January 1, 1982 through May 4, 1988.

In an affidavit dated February 14, 1990, the applicant claimed under penalty of perjury that he first entered the United States in March 1981. On his Form I-687, Application for Status as a Temporary Resident, which he also signed under penalty of perjury on February 14, 1990, the applicant claimed to live at the following addresses in New York during the relevant period:

March 1981 to October 1982:
November 1982 to October 1989:



In addition, he claimed to work for the following employers during this period:

April 1981 to June 1986:
July 1986 to October 1989:



No additional documentation, such as employment letters, utility bills, medical records, or affidavits was submitted to support the applicant's claim.

During his interview with CIS on March 29, 2004, the applicant again claimed that he entered the United States in March 1981, when he entered without inspection via boat from the Bahamas. He claimed that after arrival, he took a bus to New York where he was met by a friend (identified as [REDACTED]), with whom he lived. He claimed that he held various jobs, the first of which was a paper deliverer for the New York Times. In addition, he claimed to work at a newsstand, as a busboy at Prince of India restaurant, and as a water supplier for hot dog vendors. He claimed that he left the United States once, in April 1998, when he visited Canada to sightsee. He claims that he returned in January 1989.

On April 16, 2007, CIS issued a Notice of Intent to Deny the application. The district director noted that the record did not contain any credible and verifiable evidence that the applicant continually resided in the United States since before January 1, 1982 through May 4, 1988. The director noted that his claim of illegal entry in 1981 was not supported by documentation, and afforded the applicant the opportunity to submit additional evidence in support of his claims. The applicant failed to respond to the director's request, and the application was denied on June 23, 2007.

On appeal, counsel for the applicant submits a brief statement on Form I-290B, and claims that the applicant met his burden of proof. No new evidence is submitted in support of the appeal.

Upon review, the AAO concurs with the director's decision.

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 quality of evidence alone but by its quantity." *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.

The *Matter of E-- M--* decision provides guidance in assessing evidence of residence, particularly affidavits. In that case, the applicant had established eligibility by submitting (1) the original copy of his Arrival Departure Record (Form I 94), dated August 27, 1981; (2) his passport; (3) affidavits from third party individuals; and (4) an affidavit explaining why additional original documentation is unavailable. In this case, there is no Form I-94 or admission stamp in a passport establishing the applicant entered the United States prior to January 1, 1982.

Although the applicant claims that he entered the United States in March 1981, he likewise claims that he entered without inspection. As a result, there is no documentary evidence in the form of an arrival-departure record or stamped passport to verify the exact date of entry. The applicant provided no third-party affidavits to corroborate this claim. The applicant's statement alone, without any independent evidence, will not suffice. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

Furthermore, the application contains numerous unresolved inconsistencies. The applicant claims on Form I-687 that he worked as a waiter and a busboy in two different restaurants from April 1981 through October 1989. This claim directly contradicts that applicant's claims in his March 29, 2004 interview, where he claims that his first job was paper delivery for the New York Times. In addition, the other jobs he claims he worked at during the interview, such as operating a newsstand and supplying water to street vendors, are not mentioned or acknowledged on Form I-687. Finally, although he did claim to work as a busboy during this period in the interview, he provides the name of a different restaurant than the two restaurants listed on Form I-687. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

A few errors or minor discrepancies are not reason to question the credibility of an alien or an employer seeking immigration benefits. *See, e.g., Spencer Enterprises Inc. v. U.S.*, 345 F.3d 683, 694 (9th Cir., 2003). However, anytime a petition includes numerous errors and discrepancies, and the petitioner fails to resolve those errors and discrepancies after CIS provides an opportunity to do so, those inconsistencies will raise serious concerns about the veracity of the petitioner's assertions. Doubt cast on any aspect of the petitioner's proof may undermine the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988). In this case, the discrepancies and errors catalogued above lead the AAO to conclude that the evidence of the beneficiary's eligibility is not credible. Moreover, it is unclear how the applicant, who claims to have continuously resided in the United States since March 1981, has no documentation or affidavits from friends or acquaintances to corroborate his claims. The non-existence or other unavailability of required evidence creates a presumption of ineligibility. 8 C.F.R. § 103.2(b)(2)(i).

Given the absence of contemporaneous documentation and the numerous inconsistencies in the record, it is concluded that the applicant has failed to establish, by a preponderance of evidence, that he continuously resided in the United States in an unlawful status since before January 1, 1982 through May 4, 1988. Therefore, 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.