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U.S. Citizenship  
and Immigration  
Services

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FILE:

MSC 03 234 61739

Office: LOS ANGELES

Date: **AUG 01 2008**

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: SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has been returned to the National Benefits Center. 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, Los Angeles, California, 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 entered the United States before January 1, 1982, and resided in a continuous unlawful status through May 4, 1988.

On appeal, the applicant asserts that he has resided in the United States throughout the requisite period. The applicant submits additional evidence on appeal.

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 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.

In the Notice of Intent to Deny (NOID), dated September 1, 2006, the director stated that the applicant failed to submit evidence demonstrating his continuous unlawful residence in the United States during the requisite period. The director noted that during an interview on August 21, 2006, the applicant stated that he first entered the United States on February 26, 1982, and the applicant also signed a Sworn Statement confirming that he first entered the United States on February 26, 1982. The director granted the applicant thirty (30) days to submit additional evidence.

In his response to the NOID, the applicant submitted: 1) A notarized statement from the applicant reasserting his eligibility, stating that during his August 21, 2006 interview he was nervous and when asked by the interviewer when he first entered the United States he mistakenly replied that it was in 1982, however he had first entered the United States illegally in May 1981; 2) A letter from [REDACTED] dated September 25, 2006, stating that she has known the applicant since February 1981; 3) a letter from [REDACTED], dated September 21, 2006, stating that she has known the applicant since January 1981; 4) an affidavit from [REDACTED], sworn to on September 19, 2006, stating that he has known the applicant since 1981; and, 5) a photocopy of the front page of his Forms I-485, and I-765 dated January 28, 2003.

In addition, the applicant has submitted various documents, including tax documents and earnings statements. These documents, however, are dated after the requisite period, and are therefore, not relevant.

In the Notice of Decision, dated October 3, 2006, the director denied the instant application based on the reasons stated in the NOID.

The issue in this proceeding is whether the applicant has furnished sufficient credible evidence to demonstrate that he continuously resided in the United States in an unlawful status during the requisite period. The applicant submitted letters as evidence to support his Form I-485 application. Here, the submitted evidence is not relevant, probative, and credible.

The record also reflects that the applicant submitted a form affidavit from [REDACTED] dated September 29, 1990, attesting to knowing the applicant since February 1982, and stating that she kept in touch with the applicant from time to time. [REDACTED], however, does not state how frequently

and under what circumstance she met the applicant. It is also noted that the affiant indicates that she has known the applicant only from February 1982, which is after the beginning of the requisite period.

The applicant also submitted a letter from [REDACTED], stating that the applicant had been employed as a machine operator from February 1982 through February 1989. However, [REDACTED] failed to provide information on the applicant's address at the time of employment, and he does not show periods of layoff, 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 as required under 8 C.F.R. § 245a.2(d)(3)(i).

As noted above, at the applicant's interview on August 21, 2006, he testified and also signed a sworn statement, stating that he first entered the United States in February 1982. Although the applicant states on appeal that he entered the United States in 1981, he has failed to submit any contemporaneous evidence to support his assertion, or to overcome his testimony and sworn statement of August 21, 2006 confirming that he first entered the United States in February 1982, after the beginning of the requisite period.

The applicant has submitted three letters and two affidavits in support of his application. As stated previously, the evidence must be evaluated not by the quantity of evidence alone but by its quality. Although not required, none of the affidavits included any supporting documentation of the affiant's presence in the United States during the requisite period. None of the affiants indicated how frequently they saw the applicant and whether he resided continuously in the United States throughout the requisite period. The absence of sufficiently detailed documentation to corroborate the applicant's claim of continuous residence for the entire requisite period seriously detracts from the credibility of his 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 that are not relevant and have 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, based on the above, the applicant has failed to establish entry into the United States prior to January 1, 1982, and continuous unlawful residence 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