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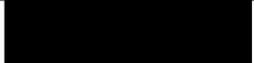
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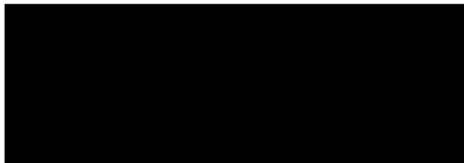
IN RE: Applicant:



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. 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, 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 demonstrate that he entered the United States before January 1, 1982, and resided in a continuous unlawful status through May 4, 1988.

On appeal, counsel for the applicant submits a brief and states that the evidence submitted establishes the applicant's eligibility. Counsel submits some of the same evidence previously submitted in support of his application.

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 June 23, 2006, the director stated that the applicant failed to submit sufficient evidence demonstrating his continuous unlawful residence in the United States during the requisite period. The director noted that the applicant submitted questionable letters and affidavits, and therefore, determined that the applicant's testimony and the evidence submitted lacked credibility and probative value. The director granted the applicant thirty (30) days to submit additional evidence.

The record reflects that counsel's response to the NOID consisted of a legal brief and additional evidence. In the Notice of Decision, dated August 21, 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 record reflects that the applicant submitted letters of employment, affidavits, photos, and copies of various mail envelopes as evidence to support his Form I-485 application. Here, the submitted evidence is not relevant, probative, and credible.

Employment Letters

The applicant submitted a letter of employment from [REDACTED] Repair, dated November 10, 1989, stating that the applicant had been employed as a mechanic helper from August 1981 to November 1986.

The applicant also submitted a letter of employment from [REDACTED], owner of Edgcombe Locksmith, Inc., dated October 31, 1989, stating that the applicant had been employed as a general helper since December 1986.

Pursuant to 8 C.F.R. § 245a.2(d)(3)(i), letters from employers should be on employer letterhead stationery. **The letters of employment are not on original company letterhead stationery.** In addition, the affiants failed to provide the applicant's address at the time of employment as required under 8 C.F.R. § 245a.2(d)(3)(i). Under the same regulations, the affiants also failed to 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.

Affidavits & Letters

The applicant submitted sworn affidavits from:

1) [REDACTED] sworn to on August 25, 2001, and on July 17, 2006, attesting to knowing the applicant since July 1, 1981. In her August 25, 2001 affidavit the affiant also states that the applicant visited his brother in Canada between May 29, 1987 and June 8, 1987. [REDACTED] states in her July 17, 2006 affidavit that she first met the applicant in the Bronx, New York, in August 1981, and the applicant was her boyfriend between August 1981 and February 1989. However, the affiant does not state whether the applicant has been a continuous resident since January 1, 1982.

2) [REDACTED] sworn to on September 12, 2001, attesting to knowing the applicant since August 1981. The affiant also states that the applicant visited his brother in Canada between May 29, 1987 and June 8, 1987. [REDACTED] states that he and the applicant have maintained a close personal relationship. However, the affiant does not state whether he became acquainted with the applicant in New York, and whether the applicant has been a continuous resident since January 1, 1982.

3) [REDACTED] sworn to on August 27, 2001, attesting to knowing the applicant to reside in the United States since July 1981. [REDACTED] states that he and the applicant have maintained a close personal relationship and visited each other frequently.

4) [REDACTED] sworn to on July 13, 2006, stating that he knows the applicant resided in New York from August 1981 to September 1992; [REDACTED] also states that the applicant was first seen at the Bethlehem Pentecostal Assembly in August 1981, and was seen for the second time in November 1992 during a visit to New York by a king from Ghana. It is noted that although Mr. [REDACTED] states that the applicant visited the Bethlehem Pentecostal Assembly church on two occasions, in August 1981, and in September 1992, he attests to knowing that the applicant resided in the United States from August 1981 through September 1992. [REDACTED] provides no basis whatsoever for his conclusion that the applicant resided continuously in the United States since August 1981.

5) [REDACTED], sworn to on February 6, 2004, stating that the applicant visited his brother in Canada between May 29, 1987 and June 8, 1987. [REDACTED] states that the applicant is the brother of a close family friend. The affiant does not state whether the applicant has been a continuous resident in the United States during any part of the requisite period.

6) [REDACTED] dated April 20, 1990, stating that the applicant, whom he claims to be his brother, visited him in Canada between May 29, 1987 and June 8, 1987, and returned to the United States in

June 1987. [REDACTED] does not state whether the applicant has been a continuous resident in the United States during any part of the requisite period. It is also noted that although [REDACTED] states that the applicant is his brother, the applicant does not list [REDACTED] as a sibling on his Form I-687.

7) [REDACTED] sworn to on February 6, 2004, stating that the applicant, who is his brother, has been living with him since October 1987. In another affidavit, sworn to on July 1, 1991, the affiant states that the applicant visited his brother in Canada between May 29, 1987 and June 8, 1987. The affiant does not state whether the applicant has been a continuous resident in the United States prior to October 1987.

8) [REDACTED] sworn to on December 15, 1989, stating that the applicant, who is her brother, lived with her in New York, from July 1981 to October 1987.

9) [REDACTED] stating that he has known the applicant who is friend since 1981, and the applicant visited his sick brother in Canada in 1987. The affiant does not state whether the applicant has been a continuous resident in the United States during any part of the requisite period, or how he maintained his friendship with the applicant during that time.

10) [REDACTED] dated April 24, 1990, stating that she has known the applicant has been residing in New York since January 1982. The affiant, however, does not state how she dates her acquaintance with the applicant, or how she is aware that the applicant resided in the United States since that time.

11) [REDACTED] dated April 24, 1990, stating that he has known the applicant has been residing in New York since July 1981. The affiant, however, does not state how he dates his acquaintance with the applicant, or how he is aware that the applicant resided in the United States since that time.

The applicant also submitted letters from:

a) [REDACTED] Financial and Recording Secretary of Bethlehem Pentecostal Assembly, Inc., dated in January 1983, stating that the applicant made cash contributions of \$400.00 to the church in 1982.

b) [REDACTED] Consul of the Consulate General of Ghana, dated April 24th 1990, stating that the applicant registered with the New York consulate on July 1, 1981;

c) [REDACTED] District Pastor of the Church of Pentecost, USA-INC., dated January 2, 2004, stating that the applicant has been a regular church member since December 1986;

d) [REDACTED], of Stress X-Rays Inc., stating that the applicant had routine blood pressure checks on October 1, 1981, and in November 1984, December 1986, January 1988, and April 1990.

The applicant also submitted a mail envelope, addressed to him in New York, with a Ghana post date of [REDACTED] and copies of mail envelopes with Ghana post dates of: [REDACTED]

██████████.” Of the five mail envelopes indicating post-marks from Ghana, three have postage stamps that are unclear. Of the remaining two envelopes, one which bears a postmark ██████████o which is affixed a postage stamp that comes from a series that was printed during 1991. See Scott 2006 Standard Postage Stamp Catalogue, Vol. 4, p. 250. Thus, the authenticity of the envelopes is questionable. In addition, the applicant submitted a merchandise receipt, dated December 21, 1987. The generic receipt lacks probative value because there is no basis to determine who issued the receipt, or to whom it was issued. The applicant also submitted photographs depicting himself with two of the affiants. However, the photographs are not probative as they are not dated, and it cannot be determined when or where they were taken.

Contrary to counsel’s assertion, although the applicant has submitted twelve affidavits and four letters in support of his application, the applicant has not provided sufficient evidence of residence in the United States during the duration of the requisite period. 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 or letter writers included any supporting documentation of the affiant’s presence in the United States during the requisite period. None of the affiants or letter writers indicated how they dated their acquaintance with the applicant, how they met the applicant or how frequently they saw the applicant. 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 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, 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.