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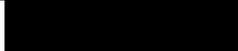
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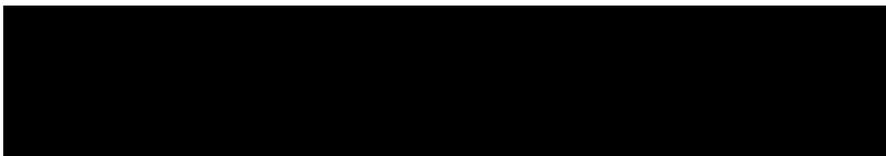
IN RE: Applicant:



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, 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 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 additional documentation.

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 states 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 petitioner 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 regulations at 8 C.F.R. § 245a.2(d)(3) provide an illustrative list of contemporaneous documents that an applicant may submit. While affidavits “may” be accepted (as “other relevant documentation”) [See 8 C.F.R. § 245a.2(d)(3)(vi)(L)] in support of the applicant’s claim, the regulations do not suggest that such evidence alone is necessarily sufficient to establish the applicant’s unlawful continuous residence during the requisite time period.

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 or about May 1990, the applicant applied for class membership in a legalization class-action lawsuit and submitted a Form I-687, Application for Status as a Temporary Resident. On September 20, 2001, the applicant filed a Form I-485, Application to Register Permanent Resident or Adjust Status, under section 1104 of the LIFE Act. On October 17, 2003, the applicant was interviewed in connection with his I-485 application.

In a Notice of Intent to Deny (NOID), dated January 27, 2005, the district director determined that the applicant had failed to submit credible and verifiable evidence demonstrating his continuous unlawful residence in the United States from prior to January 1, 1982, through May 4, 1988. The director granted the applicant thirty (30) days to submit additional evidence. In response, counsel for the applicant submitted additional affidavits from the applicant’s acquaintances.

In the Notice of Decision, dated July 16, 2005, the district director denied the application based on the reasons stated in the NOID. The applicant, through counsel, filed a timely appeal from that decision on August 10, 2005. On appeal, counsel contends that although the applicant’s evidence “is merely affidavits, nonetheless it is evidence.” In support of the appeal, counsel provides an additional affidavit and a statement from the applicant.

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 before January 1, 1982, through May 4, 1988.

A review of the record reflects that the applicant has provided sufficient documentation to establish his unlawful presence in the United States since January 1988. However, there is insufficient evidence to establish that he continuously resided in the United States in an unlawful status before January 1, 1982, through December 1987. With regard to this time period, the applicant has only provided affidavits.

In support of his Form I-687, the applicant submitted a May 9, 1990 affidavit from [REDACTED] stating that he employed the applicant as a laborer earning \$5.00 an hour, in cash, from the fall of

1981 through May 1985, and a similar affidavit from [REDACTED] dated May 17, 1990, stating that he employed the applicant as a carpet helper earning \$5.00 an hour, in cash, from May 1985 through December 1987. Neither of the letters are on company letterhead, and both affiants failed to provide the applicant's address at the time of employment, show periods of layoff, declare whether the information was taken from company records, identify the location of such company records, 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).

In support of his Form I-687, the applicant also submitted May 1990 affidavits from [REDACTED], [REDACTED], and [REDACTED] stating they had personal knowledge that the applicant had been continuously residing in the United States since on or after June 1985.

In response to the NOID, counsel for the applicant submitted additional affidavits, dated in June 2006, from [REDACTED], [REDACTED], and [REDACTED]. [REDACTED] and [REDACTED] all stated that they had met the applicant in Dallas, Texas, in January 1982. [REDACTED], stated that he had met the applicant in Dallas before 1992. Several of the affiants indicate the applicant resided with them during the requisite period, yet they failed to submit corroboration such as leases, rent receipts or utility bills. None of the affiants state how they date their acquaintance with the applicant.

Although the applicant has submitted several affidavits in support of his application, he has not met his burden of proof. 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 their identity or presence in the United States. 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 December 31, 1987.

It is concluded that the applicant has 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.