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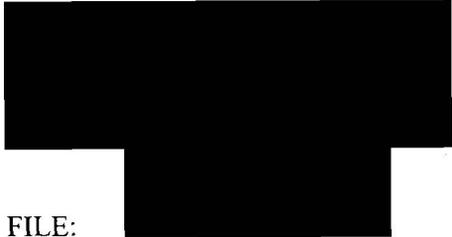
U.S. Department of Homeland Security
20 Mass Ave. NW Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:

MSC 02 131 60454

Office: ATLANTA

Date:

FEB 28 2008

IN RE:

Applicant:



PETITION: 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. 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.

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 in Atlanta, Georgia. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The director denied the application on the ground that the applicant failed to establish that he entered the United States before January 1, 1982 and resided continuously in the United States in an unlawful status from then until May 4, 1988.

On appeal, the counsel submits a brief and additional documentation.

To be eligible for adjustment to permanent resident status under the LIFE Act applicants must also establish their continuous unlawful residence in the United States from before January 1, 1982 through May 4, 1988, as well as their continuous physical presence in the United States from November 6, 1986 through May 4, 1988. See section 1104(c)(2)(B)(i) and (C)(i) of the LIFE Act, 8 U.S.C. § 245A(a)(2)(A) and (3)(A).

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.

The applicant filed his application for permanent resident status under the LIFE Act (Form I-485) on February 8, 2002. As evidence of his residence in the United States during the 1980s, the applicant submitted photocopies of a letter from the public information official of a Muslim community organization in New York City, dated June 9, 1989, stating that the applicant has been a member of the community and attended services since March 1981; affidavits from five individuals residing in New York City, all prepared in June 1989, who assert that they have either lived or worked with the applicant in New York since March 1981; a virtually illegible New York State identification card which may have been issued in 1983, and an undated Social Security card in the applicant's name identified as "Not Valid for Employment." In response to a request for further evidence, issued on January 26, 2005, the applicant submitted photocopies of a rental receipt dated December 17, 1981, and medical records dated June 11, 1987, December 1, 1990, and October 12, 2000.

On April 20, 2005, the director issued a Notice of Intent to Deny (NOID), advising the applicant that the evidence of record was insufficient to establish his continuous residence and physical presence in the United States for the requisite time periods. The applicant was granted 30 days to submit additional evidence, but did not respond to the NOID.

On June 13, 2005, the director denied the application for failure of the applicant to establish his continuous unlawful residence in the United States from before January 1, 1982 until May 4, 1988.

On appeal the applicant resubmits copies of numerous documents already in the record, and submits photocopies of three additional rental receipts – dated September 3, 1986, November 29, 1987, and June 22, 1988 – as evidence of his residence in the United States during the requisite time period in the years 1981-1988.

The evidence of record still does not establish the applicant's continuous physical presence in the United States from before January 1, 1982 through May 4, 1988.

The rental receipts dated from December 1981, September 1986, November 1987, and June 1988 – in addition to the fact that they do not cover any of the years 1982 to 1985 in which the applicant claims to have been living in the United States – lack any date stamps or other official markings, and do not identify the rental property address (except for a room number). The numerical sequence of the receipts is out of order, which casts further doubt on their authenticity. Thus, the receipt from December 1981 bears the identification number [REDACTED] the receipt from September 1986 bears the identification number [REDACTED] the receipt from November 1987 bears the identification number [REDACTED] and the receipt from June 1988 bears the identification number [REDACTED]

Doubt cast on any aspect of the applicant's evidence reflects on the reliability of the petitioner's remaining evidence. It is incumbent upon an applicant to resolve any inconsistencies in the record by independent objective evidence. Attempts to explain or reconcile such inconsistencies will not suffice without competent evidence pointing to where the truth lies. *See Matter of Ho*, 19 I&N Dec. 582, 591-92, (BIA 1988). No such competent evidence has been submitted by the applicant to reconcile the foregoing inconsistencies with respect to the rental receipts.

The New York State identification card, as previously indicated, is virtually illegible. While it may show the year 1983 and the applicant's name, the personal photograph is dark. The quality of the photocopied submission in the record is too poor to serve as credible evidence. The photocopied Social Security Card in the record has no date, and therefore is no evidence of the applicant's presence in the United States during the 1980s. The medical records from 1987, 1990, and 2000, even if genuine, do not show that the applicant was present in the United States in preceding years back to 1981.

The affidavits from acquaintances of the applicant in June 1989 are not supported by any documentation of the affiants' own identity and presence in the United States during the years 1981-1988, which calls into question the basis of their knowledge that the applicant was resident and physically present in the United States during that time. The affidavits have similar fill-in-the-blank formats that provide few details as to the basis of the affiants' recollections that their acquaintances with the applicant dated from the specific year 1981 and the extent of their interaction with the applicant during the rest of the 1980s. Moreover, the handwritten information provided by the affiants appears to be in the same script on every affidavit, which casts further doubt on the amount of input the affiants themselves had in preparing the documents. The letter from the public information official asserting that the applicant has been a member of the local Muslim community since 1981 has similar shortcomings. The author of the letter provides no documentary proof of his own identity and presence in the United States during the 1980s, no detailed information as to how and when he met the applicant, and no information as to whether his statement that the applicant has been a member of the Muslim community since 1981 is based on his personal knowledge or on official records of some sort.

Based on the foregoing analysis, the AAO determines that the applicant has failed to establish his continuous residence in the United States in an unlawful status from before January 1, 1982 through May 4, 1988, as required under section 1104(c)(2)(B)(i) of the LIFE Act, 8 U.S.C. § 245A(a)(2)(A). Thus, the applicant has failed to establish his eligibility for permanent resident status under the LIFE Act. The applicant's appeal will be dismissed, and the application denied.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.