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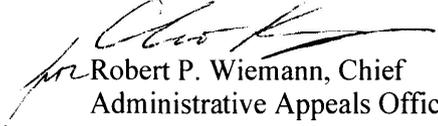
IN RE: Applicant:

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

The director denied the application because the applicant failed to establish that he entered the United States before January 1, 1982, and that he resided continuously in the United States in an unlawful status since that date through May 4, 1988.

On appeal, counsel asserts that the evidence is credible because the director provided no explanation as to why the evidence was discredited. Counsel contends, that taken at face value, the evidence is sufficient to establish the applicant's claim and the applicant has met his burden of proof.

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.* at 80. 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 applicant has satisfied the standard of proof. *See U.S. v. Cardozo-Fonseca*, 480 U.S. 421, 431 (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)(v) states that letters from churches, unions or other organizations attesting to the applicant's residence must: identify the applicant by name; be signed by an official whose title is shown; show inclusive dates of membership; state the address where the applicant resided during membership period; include the seal of the organization impressed on the letter or the letterhead of the organization; establish how the author knows the applicant; and establish the origin of the information being attested to.

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 regulation at 8 C.F.R. § 245a.2(d)(3)(iv) states that hospital or medical records showing treatment or hospitalization of the applicant or his or her children must show the name of the medical facility or physician and the date(s) of the treatment or hospitalization.

In the Notice of Intent to Deny (NOID), dated January 10, 2005, the director stated that the applicant failed to submit a response to the Form I-72 request for additional evidence. The director determined the record was insufficient to establish the applicant's entry into the United States prior to January 1, 1982, and continuous unlawful residence since such date through May 4, 1988. The director granted the applicant thirty (30) days to submit a rebuttal or additional evidence. The applicant submitted two affidavits as additional evidence.

In the Notice of Decision (NOD), dated March 7, 2005, the director determined that applicant's affidavits failed to overcome the reasons for denial stated in the NOID. The director denied the instant application and determined that the applicant was ineligible for adjustment of status under LIFE Legalization.

The issue in this proceeding is whether the applicant has furnished sufficient credible evidence to demonstrate that he entered the United States prior to January 1, 1982, and continuously resided in the United States in an unlawful status since before January 1, 1982, through May 4, 1988. Here, the submitted evidence is not sufficient.

#### Entry before January 1, 1982

The applicant must establish that he entered the United States before January 1, 1982, pursuant to Section 1104(c)(2)(B) of the LIFE Act. In his Form I-648, Memorandum Record Interview, the

applicant stated that he first entered the United States in “1981 I think.” The record does not reflect any specific date of entry or details regarding the applicant’s method of entry into the United States. To substantiate his claim of entry into the United States prior to January 1, 1982, the applicant submitted the following evidence:

1. A September 14, 2003, letter by [REDACTED] who stated that he has known the applicant since 1981. The affiant met him in Chicago when the applicant was looking for a job and a place to live. The affiant stated that he had seen the applicant working in an Indian grocery store unloading trucks and stacking groceries for \$3.00 per hour. The affiant provided his telephone number.
2. A September 14, 2003, letter by [REDACTED], who stated that he has known the applicant since 1981. The affiant stated that he met the applicant through his older brother, [REDACTED], at his place. The affiant stated that he took the applicant shopping in 1982 or 1983 to K-Mart to buy some winter clothes. The affiant provided his address of residence.
3. A May 2, 2005, prescription note by [REDACTED] who stated that it appeared the applicant was a patient in 1981 and was requesting his records for when he was treated for bronchitis. However, the affiant stated that he doesn’t have any records as the records are purged every 10 years. In a subsequent note, dated June 3, 2005, the affiant stated that the applicant had a high fever, cough and weakness in 1981 and was treated for severe bronchitis.

While there is no inconsistency in the affidavits by [REDACTED] and [REDACTED] the affidavits provide minimal probative value. Although not required, neither affidavit included any supporting documentation of the affiant’s identity or presence in the United States. Neither affiant indicated how the applicant entered the United States or how frequently they saw the applicant. The absence of sufficiently detailed documentation to corroborate the applicant’s claim of entry into the United States prior to January 1, 1982, seriously detracts from the credibility of his claim.

Furthermore, the statements by [REDACTED], are contradictory. In the first note, the affiant stated that the medical records did not exist because the medical records were purged every 10 years. Whereas, in the second note, the affiant stated that the applicant was seen in 1981 and treated. There is no explanation given to reconcile the discrepancy between the affiant’s two notes. The affiant failed to provide the source of such information, a copy of the medical records, and specific dates of treatment as required under 8 C.F.R. § 245a.2(d)(3)(iv). The contradictory statements and failure to provide a credible source for the medical records casts doubts on the credibility of the affiant.

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 entry into the United States prior to January 1, 1982.

Continuous Unlawful Residence

The applicant must also establish that he resided continuously in the United States in an unlawful status since January 1, 1982, through May 4, 1988, pursuant to Section 1104(c)(2)(B) of the LIFE Act. To substantiate his claim, the applicant submitted the following evidence:

- i. A February 8, 2005, letter by [REDACTED], who stated that the applicant was a patient in 1982 and was treated for the whole year of 1982. The affiant stated that, at that time, the applicant was residing at [REDACTED]
- ii. A September 14, 2003, notarized letter by [REDACTED], who stated that he knew the applicant since 1986-1987. The affiant stated that when they met, the applicant was living with his father in law. The affiant provided his address of residence and telephone number.
- iii. An undated letter by [REDACTED] who stated that he has met the applicant in 1985-1986 and knew the applicant's family back home in [REDACTED]. The affiant provided his telephone number.
- iv. A September 14, 2003, notarized letter by [REDACTED] who stated that he has known the applicant since 1984-1985. The affiant stated that the applicant would stay with him. The affiant provided his address of residence.
- v. An undated letter by [REDACTED] who stated that he has known the applicant since "back home" and that he was a classmate of the applicant's brother-in-law. The affiant came to the United States in 1984 and contacted the applicant. The affiant provided his telephone number.
- vi. A September 15, 2003, subscribed and sworn letter by [REDACTED] who stated that he has known the applicant since 1982. The affiant stated that the applicant approached him. At the end of the letter, the affiant stated, "This was in 85-86 as long I can remember." The affiant provided his telephone number and residential address.
- vii. A January 21, 2005, letter by [REDACTED] who stated that the applicant rendered volunteer services to their non-profit organization, [REDACTED], from January 1986 to the present. The letter is on letterhead and the affiant provided his telephone number.
- viii. An undated letter by [REDACTED] co-owner of [REDACTED], who stated that the applicant was employed by the firm from January 1986 to February 1988. The employer stated that the store closed and they no longer needed the applicant's services. The employer provided his business address and telephone number.

Although the applicant has submitted numerous affidavits in support of his application, the applicant has not provided any credible, contemporaneous evidence of residence in the United States for the duration of the requisite period, specifically 1983. The evidence must be evaluated not only by the quantity of evidence alone but by its quality. *Matter of E-M-*, 20 I&N Dec. at 80.

The affidavit by [REDACTED] stated that he treated the applicant for the whole year of 1982. However, he failed to provide the applicant's medical records or dates of treatment to substantiate his claim. The affidavits by [REDACTED] and [REDACTED] failed to provide the exact year that they met the applicant, instead stating a period ranging over two years. The letter by [REDACTED] stated that he has known the applicant since 1982, but he also stated that he can only remember as far back as 1985-1986. The poor quality of the above affidavits casts doubt on the credibility of the affiants.

The affiant [REDACTED] stated that the applicant rendered volunteer services at [REDACTED] from January 1986 to the present. It is noted that the applicant did not indicate he was a member or volunteer of this organization on his Form I-687, Application for Status as a Temporary Resident, dated October 1, 1990. Also, the affiant failed to indicate his official title, state the address where the applicant resided during his membership period, and establish the origin of the information being attested to as required under 8 C.F.R. § 245a.2(d)(3)(v).

The employment letter, by [REDACTED] stated that the applicant worked for the firm from January 1986 to February 1988. The employer failed to provide the applicant's address at the time of employment, 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 as required under 8 C.F.R. § 245a.2(d)(3)(i).

The absence of sufficiently detailed and supported 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 discussion, 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. Consequently, he is ineligible for permanent resident status under Section 1104 of the LIFE Act.

The application will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial.

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