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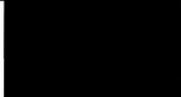
**U.S. Citizenship  
and Immigration  
Services**

**PUBLIC COPY**



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FILE:



Office: SEATTLE

Date:

**JUL 03 2008**

[redacted - consolidated herein]

MSC 02 073 62026

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.

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

The district director determined the applicant failed to establish that he entered the United States before January 1, 1982, and resided in a continuous unlawful status from then through May 4, 1988, and that he maintained continuous physical presence in the United States during the period from November 6, 1986 through May 4, 1988, as required under sections 1104(c)(2)(B) and (C) of the LIFE Act.

On appeal, the applicant submits a letter 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)(v), states that attestations from churches, should: 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 the member ship period; include the seal of the organization impressed on the letter or the letterhead of the organization, if the organization has letterhead stationery; establish how the author knows the applicant; and, establish the origin of the information being attested to.

The record reflects that in or about September 1991, the applicant submitted a Form I-687, Application for Temporary Residence (Under Section 245A of the Immigration and Nationality Act) pursuant to the terms of the settlement agreements reached in *Catholic Social Services, Inc., et al., v. Ridge, et al.*, CIV. NO. S-86-1343-LKK (E.D. Cal) January 23, 2004, and *Felicity Mary Newman, et al., v. United States Immigration and Citizenship Services, et al.*, CIV. NO. 87-4757-WDK (C.D. Cal) February 17, 2004 (CSS/Newman Settlement Agreements). On his application, the applicant, a native and citizen of Mali, claimed to have entered the United States without inspection on December 1981, and to have departed the United States on one occasion – from October 12, 1987, to November 4, 1987 – in order to visit family in Canada. He stated that he departed the United States by car and reentered by car, again without inspection.

In support of the Form I-687, the applicant submitted an affidavit, notarized on June 15, 1990, from [REDACTED] of New York, New York, stating that he had personal knowledge that the applicant had resided in New York since February 1982. The applicant also submitted two letters from New York hotels (Hotel Bryant and Hotel Mansfield Hall) stating that the applicant had resided at those hotels from January 1982 through December 1988, and a letter, dated January 20, 1991, from the Masjid Malcolm Shabazz, New York, New York, stating that the applicant had attended Friday prayer services since January 1982. The application for class membership was denied on April 28, 1993, on the basis that the affidavits and letters submitted by the applicant in support of his Form I-687 were fraudulent.

The record also reflects that the applicant filed a Form I-589, Request for Asylum in the United States, on August 12, 1993. The applicant claimed on his Form I-589 to have last entered the United States as a nonimmigrant visitor for business purposes (B-1) on February 18, 1989. In an interview in connection with that application, held on August 16, 2001, the applicant stated that he had worked at a government bank in Mali from 1981 until 1986, on contract in Gabon from 1986 until September 1988, and returned to Mali to apply (in December 1988) for a visa to enter the United

States. On September 18, 2001, the applicant's asylum request was referred for a hearing before an Immigration Judge (IJ) due to material inconsistencies within his testimony and between his testimony and his application.

The applicant filed the current Form I-485, Application to Register Permanent Resident or Adjust Status, under the LIFE Act on January 22, 2002.

On May 22, 2003, the district director issued a Notice of Intent to Deny (NOID), stating that the applicant had not demonstrated he met the continuous residence and continuous physical presence requirement requirements for adjustment of status under the LIFE Act. The district director specifically noted discrepancies and inconsistencies in the record regarding the applicant's claims on his Forms I-485, I-687 and I-589. The applicant was provided 30 days in which to submit any evidence he wished to be considered in making a final decision in his case.

In response to the NOID, the applicant provided a photocopy of a letter, dated June 5, 2003, from the Volunteer Services Manager of the University of Washington Medical Center, stating that the applicant "was an outstanding volunteer during several periods from 1986 through 1997;" a photocopy of a letter, dated June 4, 2003, from Citibank, stating that they do not have account information on file for accounts opened between 1982 and 1994; and, several un-translated letters.<sup>1</sup>

The district director denied the application on July 1, 2004, because the applicant had not submitted credible, verifiable evidence to show he met the continuous residence and continuous physical presence requirements under the LIFE Act.

On appeal, the applicant provides a letter, dated July 27, 2006, from Washington State Senator Maria Cantwell, requesting that the applicant's case be given fair consideration, and several more un-translated letters.

The issue in this proceeding is whether the applicant has established that he entered the United States before January 1, 1982, and resided in a continuous unlawful status from then through May 4, 1988, and that he maintained continuous physical presence in the United States during the period from November 6, 1986 through May 4, 1988. Upon review of all the evidence in the record, the AAO determines that the documentation submitted is not sufficiently relevant, probative, and credible to meet the applicant's burden of proof.

While not required, the affidavit from [REDACTED] dated in 1990, was not accompanied by proof of identification or any evidence that he actually resided in the United States during the relevant period.

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<sup>1</sup> Any document containing a foreign language submitted to Citizenship and Immigration Services (CIS) must be accompanied by a full English language translation that the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English. 8 C.F.R § 103.2(b)(3). As the applicant failed to comply with the aforementioned requirement, the un-translated letters cannot be considered in support of his application.

The affidavit was also vague as to how [REDACTED] or dated his acquaintance with the applicant, how often and under what circumstances he had contact with the applicant during the requisite period, and generally lacked details that would lend credibility to his claim. The letter from Masjid Malcolm Shabazz, dated in 1991, has little evidentiary weight or probative value as it does not conform to the basic requirements specified in 8 C.F.R. § 245a.2(d)(3)(v). The letters from the New York hotels, dated in 1990 and 1991, are not accompanied by any objective, corroborative documentation. In fact, this documentation submitted in support of the applicant's Form I-687 was found to be fraudulent.

The record also reveals that the applicant has provided contradicting testimony concerning his whereabouts from prior to January 1, 1982, through May 4, 1988. Although he claims to have resided continuously in the United States since his entry without inspection in 1981, he also claims to have resided in Mali and Gabon from 1981 to 1988. Doubt cast on any aspect of the evidence as submitted may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. Furthermore, it is incumbent on the applicant to resolve any inconsistencies in the record by independent objective evidence; any attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582. (Comm. 1988).

In summary, the applicant has provided no employment letters that comply with the guidelines set forth in 8 C.F.R. § 245a.2(d)(3)(i)(A) through (F), no utility bills according to the guidelines set forth in 8 C.F.R. § 245a.2(d)(3)(ii), no school records according to the guidelines set forth in 8 C.F.R. § 245a.2(d)(3)(iii), and no hospital or medical records according to the guidelines set forth in 8 C.F.R. § 245a.2(d)(3)(iv). The applicant also has not provided documentation (including, for example, money order receipts, passport entries, children's birth certificates, bank book transactions, letters of correspondence, a Social Security card, or automobile, contract, and insurance documentation) according to the guidelines set forth in 8 C.F.R. § 245a.2(d)(3)(vi)(A) through (I) and (K). The documentation provided by the applicant consists solely of third-party affidavits ("other relevant documentation") that were found to be fraudulent and contradictory testimony. All of the objective documentation provided by the applicant, including photocopies of his passport showing entry into the United States as a nonimmigrant visitor on January 19, 1989, is dated on or after the required dates.

The absence of documentation to establish the applicant's claim of continuous residence for the entire requisite period 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.

The regulation at 8 C.F.R. § 245a.12(e) provides that "[a]n alien applying for adjustment of status under [section 1104 of the LIFE Act] has the burden of proving by a preponderance of the evidence that he or she has resided in the United States for the requisite periods." Preponderance of the

evidence is defined as “evidence which as a whole shows that the fact sought to be proved is more probable than not.” Black’s Law Dictionary 1064 (5<sup>th</sup> ed. 1979). *See Matter of Lemhammad*, 20 I&N Dec. 316, 320, Note 5 (BIA 1991).

Given the insufficiency in the evidence, the AAO determines that the applicant has not met his burden of proof. The applicant has not established, by a preponderance of the evidence, that he entered the United States before January 1, 1982, resided in this country in an unlawful status continuously since that time through May 4, 1988, and maintained continuous physical presence in the United States during the period from November 6, 1986 through May 4, 1988, as required under 1104(c)(2)(B)(i) of the LIFE Act and 8 C.F.R. § 245a.11(b). Thus, 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.