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

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FILE:

MSC 02-173-60263

Office: DALLAS

Date:

**JUL 18 2008**

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. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits Center. 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. If your appeal was sustained or remanded for further action, you will be contacted.

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, Hartford, Connecticut. The decision 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 asserts that the director's decision is in error. According to counsel, the applicant's evidence is sufficient.

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 or 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 on or about March 31, 2005, 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 granted the applicant thirty (30) days to submit additional evidence. The record reflects that no additional evidence was received. In the Notice of Decision, dated February 3, 2006, the director denied the instant applicant 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 applicant submitted letters of employment and affidavits as evidence to support his Form I-485 application. Here, the submitted evidence is not relevant, probative, and credible.

The applicant submitted:

1. Employer statements from [REDACTED] and [REDACTED].
2. Statements from [REDACTED], [REDACTED], and [REDACTED].
3. Date-stamped envelopes dated February 17, 1982, October 15, 1983, December 27, 1983, March 13, 1984, January 2, 1986, December 30, 1988, and August 9, 1989.

Employment Letters

The applicant submitted a January 8, 2003 letter from [REDACTED] Director/Member of CITGO Bestway Food Store. Mr. [REDACTED] stated that the applicant has been employed in the position of clerk since January 2001, with a starting salary of \$300 a week and a current salary of \$400 a week. Mr. [REDACTED] 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, 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 applicant submitted four fill-in-the-blank form letters of employment by [REDACTED], [REDACTED], and [REDACTED]. Mr. [REDACTED], a manager, stated that the applicant worked for him as a gas attendant from May 1981 to August 1982. Mr. [REDACTED], a worker, stated that the applicant worked for him as a gas attendant from October 1982 to August 1986. Mr. [REDACTED], a worker, stated that the applicant worked for him as a car washer from September 1986 to September 1990. These statements have little evidentiary weight or probative value as they do not provide basic information that is expressly required by 8 C.F.R. § 245a.2(d)(3)(i). Specifically, the statements 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, 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). Further, given the job titles provided by the signatories, their claims that the applicant worked for them are not credible. Three of the four signatories fail to provide the name or address of the place of employment.

Mr. [REDACTED], President of 1014 Gas Inc., and Rom Gas Inc. stated that the applicant worked for him as a gas attendant from July 1984 to the present and from October 1981 to June 1984 at a weekly salary of \$225 and \$160 respectively. Mr. [REDACTED] 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; 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).

Affidavits

The applicant submitted an affidavit from [REDACTED] who stated that he has known the applicant since July 1981.

The applicant submitted three affidavits, which are completed on the same Certificate of Corroborating Witness as to the Applicant's Place of Residency forms. The applicant submitted sworn affidavits by [REDACTED] and [REDACTED]. Mr. [REDACTED] stated that the applicant has lived at [REDACTED], Jamaica, New

York from September 1986 to October 1990. Mr. [REDACTED] stated that he has known the applicant since 1982 and the applicant has lived at [REDACTED], Brooklyn, New York from October 1982 to September 1986. Mr. [REDACTED] stated that the applicant has lived at [REDACTED], Brooklyn, New York from May 1981 to October 1982. All these affiants provided their address, as well as the applicant's address during the time they claimed he lived in the various locations.

The applicant also submitted an affidavit by [REDACTED], who stated that the applicant entered the United States in May 1981 and he got him a job at a gas station. According to [REDACTED], the applicant left for Pakistan in July 1987.

The applicant submitted two affidavits from [REDACTED], who stated that he has known the applicant since 1981. Mr. [REDACTED] stated that the applicant lived with him from September 1981 to July 1986 at [REDACTED], Brooklyn, New York; from July 1986 to October 1989, at [REDACTED], Brooklyn, New York; from October 1989 to February 1990 at [REDACTED], Brooklyn, New York; and from February 1990 to the date of the statement at [REDACTED], Palisades Park, New Jersey. However, the addresses of these claimed residences contradict the addresses provided by [REDACTED] and [REDACTED].

The applicant also submitted another statement from [REDACTED] who stated that the applicant lived with him at [REDACTED] from July 1986 to October 1989 and at [REDACTED] from September 1981 to July 1986. These discrepancies have not been satisfactorily explained. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988).

The applicant also submitted an affidavit from [REDACTED] who stated that he has known the applicant since October 1982 and worked with him from October 1982 to August 1986.

The applicant also submitted affidavits of residency by [REDACTED] and [REDACTED] the applicant's cousins. [REDACTED] and [REDACTED] stated that the applicant has lived in the United States since 1981.

The applicant also submitted a statement from [REDACTED] the applicant's uncle. [REDACTED] stated that he kept in touch with the applicant from 1984 until 1988.

Although the applicant has submitted numerous affidavits in support of his application, the applicant has not provided any contemporaneous 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 included any supporting documentation of the affiants' presence in the United States during the requisite period. None of the affiants 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 December 31, 1987.

The date-stamped envelopes provided by the applicant are all dated subsequent to the qualifying date to establish the applicant's entry into the United States prior to January 1, 1982. Therefore, the documents are of little or no probative value.

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 December 31, 1987, 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