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U.S. Citizenship  
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Services

**PUBLIC COPY**

[REDACTED]

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FILE: [REDACTED] MSC 02 169 64602

Office: ATLANTA

Date: JUN 12 2008

IN RE: Applicant: [REDACTED]

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:

[REDACTED]

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

The district director concluded that the applicant had not established that he resided in the United States in a continuous unlawful status from before January 1, 1982, through May 4, 1988, as required by section 1104(c)(2)(B) of the LIFE Act, and was continuously physically present in the United States from November 6, 1986, through May 4, 1988, as required by section 1104(c)(2)(C) of the LIFE Act.

Counsel for the applicant timely filed a Form I-290B, Notice of Appeal to the Administrative Appeals Unit, in which he asserts that the director did not “properly evaluate” the applicant’s evidence. Counsel indicated on the Form I-290B that a brief and/or additional evidence would be submitted within 30 days of filing the appeal. As of the date of this decision, however, more than three years after the appeal was filed, no further documentation has been received by the AAO. Therefore, the record will be considered complete as presently constituted.

An applicant for permanent resident status must establish entry into the United States before January 1, 1982, and continuous residence in the United States in an unlawful status since such date and through May 4, 1988. Section 1104(c)(2)(B) of the LIFE Act; 8 C.F.R. § 245a.11(b).

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 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.

Although Citizenship and Immigration Services (CIS) 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. 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 an affidavit to determine class membership, which he signed under penalty of perjury on December 10, 1990, the applicant stated that he first entered the United States in August 1981 from Canada without a visa, that he left in December 1982, and returned on January 14, 1983, with a visa. He stated that he was told he was not eligible for "amnesty" because he left the United States in December 1982. In another affidavit to determine class membership, which he signed under penalty of perjury on September 6, 1991, the applicant stated that he first entered the United States in July 1981 with a visa through John F. Kennedy Airport in New York, and that he violated his status by overstaying his authorization and working illegally. He also repeated the statement that he was told he was not eligible for "amnesty" because he left the United States in December 1982. However, he also stated that he last entered the United States in April 1982.

On his Form I-687, Application for Status as a Temporary Resident, which he signed under penalty of perjury on December 10, 1990, the applicant stated that he lived at [REDACTED] in Lake Worth, Florida from August 1981 to May 1990. The applicant also stated that he departed the United States in December 1982 because his mother was ill and returned in January 1983. However, on another Form I-687 application, which he signed under penalty of perjury on September 6, 1991, the applicant stated that he lived at [REDACTED] West Palm Beach, Florida from July 1981 to August 1985, and at [REDACTED] Lake Worth, Florida from September 1985 to December 1990. He stated that he left the United States once during the qualifying period, in March 1982 because his mother was ill and returned on April 10, 1982, pursuant to a visitor's visa.

On his 1991 Form I-687 application, the applicant stated that he worked as a stockman at M&M Grocer's in Boca Raton, Florida from December 1981 to May 1985, and as a stockman at Community Grocery in West Palm Beach, Florida from February 1986 to the date of his Form I-687 application.

In an attempt to establish continuous unlawful residence since before January 1, 1982, through May 4, 1988, the applicant submitted the following evidence:

1. A September 6, 1991, notarized statement from [REDACTED], who stated that he was the owner of M. M. Grocer's Inc., and that the applicant worked for him as a salesman from December 1981 to December 1985. We note that the applicant stated on his 1991 Form I-687 application that he worked for M& M Grocer's until May 1985. Mr. [REDACTED]'s letter does not contain the information required by 8 C.F.R. § 245a.2(d)(3)(i), in that it does not provide the applicant's address at the time of his employment or whether the information concerning the applicant's employment was taken from company records. The applicant submitted no documentation such as canceled paychecks, pay vouchers, or similar documentation to corroborate his employment with [REDACTED].
2. A copy of a January 24, 2002, statement from [REDACTED], in which he stated that he had known the applicant for a long time, and that the applicant called him shortly after his arrival in the United States in 1981.

3. A copy of an undated notarized statement from [REDACTED], in which he certified that he met the applicant at the airport in New York in July 1981, and that the applicant stayed with him a few days before moving to Florida.
4. A March 28, 2003, notarized statement from [REDACTED] in which he stated that the applicant lived with him as his roommate in different areas of West Palm Beach. Mr. [REDACTED] stated that, although the lease and utility bills were not in the applicant's name, he paid his share of the living expenses. We note that on his 1990 Form I-687 application, the applicant stated that he lived at one address in Lake Worth, Florida, while on his 1991 Form I-687 application, the applicant stated that he lived in West Palm Beach from 1981 to 1985, and then in Lake Worth from September 1985.
5. A copy of an undated statement from [REDACTED] in which he stated that he was a friend of the applicant, and had known him since 1983. Mr. [REDACTED] did not state the circumstances of his initial acquaintance with the applicant or how he dated his relationship with him.
6. A September 2, 1991, notarized statement from [REDACTED] in which he stated that he was the owner of Community Grocery in West Palm Beach, Florida, and that the applicant had worked for him as a salesman since February 1986. Mr. [REDACTED]'s letter does not contain the information required by 8 C.F.R. § 245a.2(d)(3)(i), in that it does not provide the applicant's address at the time of his employment or whether the information concerning the applicant's employment was taken from company records. The applicant submitted no documentation such as canceled paychecks, pay vouchers, or similar documentation to corroborate his employment with Mr. [REDACTED].

On December 21, 2004, the director issued a Notice of Intent to Deny (NOID) in which she requested that the applicant submit additional evidence of continuous unlawful residence in the U.S. from January 1, 1982, through May 4, 1988, and continuous physical presence in the U.S. from November 6, 1986, through May 4, 1988. In response, the applicant submitted the following additional documentation:

7. A January 14, 2005, affidavit from [REDACTED], in which he stated that, to his personal knowledge, the applicant had lived in the United States since prior to January 1, 1982. The affiant stated that, "just before Christmas of 1981," he traveled to Florida with a relative who was a friend of the applicant. Although the affiant did not specifically state that he met the applicant at that time, he stated that they have kept in touch.
8. A January 13, 2005, affidavit from [REDACTED] in which he stated that he had known the applicant for the past 23 years, and that he had personal knowledge that the applicant had been residing in the United States since prior to January 1, 1982. The affiant did not state the nature of his relationship with the applicant, the circumstances surrounding his initial acquaintance with the applicant, or the basis of his knowledge of the applicant's presence and residence in the United States during the required period.

The applicant also submitted copies of envelopes addressed to him at M. M. Grocery and Community Grocery. The postmarks purport to have cancellation dates of August 17, 1985, and May 9, 1987. However, the years shown in these cancellation dates are smaller than the month and day and are blocked separately, thus raising doubts as to their credibility.

The applicant gave conflicting statements regarding his arrival and subsequent departure from the United States, stating in one affidavit that he arrived in the United States in August 1981 without a visa and on another affidavit that he arrived in July 1981 with a visa. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the applicant submits competent objective evidence pointing to where the truth lies. Doubt cast on any aspect of the applicant's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa application. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988). The applicant has failed to submit any objective evidence to explain or justify these inconsistencies in his statements and those of others who attested to his presence and residence in the United States. Therefore, the reliability of the remaining evidence offered by the applicant is suspect and casts doubt on the credibility of those who submitted affidavits and statements on his behalf.

The statements submitted by the applicant attesting to his employment fail to provide the information required by 8 C.F.R. § 245a.2(d)(3)(i). Additionally, the statements and affidavits from those attesting to the applicant's presence and residence in the United States lack detail to establish the attester's knowledge of the applicant's presence and residence in the United States during the required period.

The absence of sufficiently detailed supporting documentation to corroborate the applicant's claim of continuous residence for the entire requisite period seriously detracts from the credibility of this 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 contradictory statements on his applications and his 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.

The record reflects that the applicant filed a Form I-687 application 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 December 27, 2007, under CIS receipt number MSC 06 088 11168. The Field Office Director, Atlanta, Georgia denied the application on January 31, 2008. The applicant's appeal of that decision is not at issue in this decision.

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