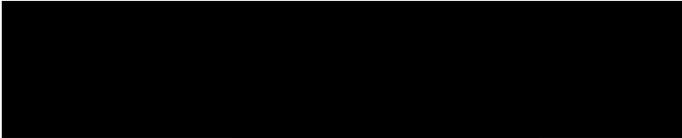




U.S. Citizenship  
and Immigration  
Services

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

PUBLIC COPY



L2

FILE:



Office: Los Angeles

Date:

MAR 03 2008

MSC 01 345 61061

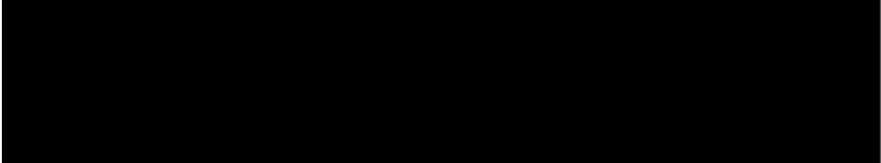
IN RE:

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 office that originally decided your case. If your appeal was sustained, or if your case 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.

A handwritten signature in black ink, appearing to be "R. P. Wiemann".

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

The district director denied the application because the applicant had failed to establish residence in the United States in an unlawful status from January 1, 1982 through May 4, 1988.

On appeal, counsel contends that the applicant has submitted sufficient evidence to support his claim of continuous residence in the United States from prior to January 1, 1982 through May 4, 1988 to Citizenship and Immigration Services or CIS (formerly the Immigration and Naturalization Service or the Service). Counsel asserts that an individual who provided supporting documents, [REDACTED] is willing to come forward and testify in person if needed to verify and reaffirm his prior testimony. Counsel includes copies of previously submitted documentation in support of the appeal.

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 and 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 under the provisions of section 212(a) of the Immigration and Nationality Act (Act), 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).

Although the regulation at 8 C.F.R. § 245a.2(d)(3) provides an illustrative list of contemporaneous documents that an applicant may submit in support of his or her claim of continuous residence in the United States in an unlawful status since prior to January 1, 1982 to May 4, 1988, the submission of any other relevant document including affidavits is permitted pursuant to 8 C.F.R. § 245a.2(d)(3)(vi)(L).

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 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.

At issue in this proceeding is whether the applicant has submitted sufficient credible evidence to meet his or her burden of establishing continuous unlawful residence in the United States during the requisite period. Here, the applicant has failed to meet this burden.

The applicant made a claim to class membership in a legalization class-action lawsuit and as such, was permitted to file a Form I-687, Application for Temporary Resident Status Pursuant to Section 245A of the Immigration and Nationality Act (Act), on January 8, 1990. At part #33 of the Form I-687 application where applicants were asked to list all residences in the United States since the date of their first entry, the applicant listed [REDACTED] in Los Angeles, California from May 1981 to August 1985 and "[REDACTED]" in Los Angeles, California from August 1985 through at least the date of the termination of the original legalization application period on May 4, 1988. At part #36 of the Form I-687 application where applicants were asked to list all employment in the United States since first entry, the applicant listed employment as a subcontractor for [REDACTED], of Los Angeles, California from January 1981 to January 1988.

In support of his claim of continuous residence in the United States since prior to January 1, 1982, the applicant submitted three photocopied receipts reflecting his payment to the Department of Water and Power for the City of Los Angeles for utility service provided to his residence at [REDACTED], in Los Angeles, California beginning October 16, 1985 through August 17, 1989.

The applicant provided an affidavit that is signed by [REDACTED], and dated December 5, 1989. [REDACTED] asserted that he had knowledge the applicant was a self-employed contractor from 1981 to 1988 and indicated that he employed the applicant from January 1989 through the date this affidavit was executed. However, [REDACTED] failed to state the circumstances under which he first met the applicant or the source of his knowledge relating to the applicant's employment in that period from 1981 to 1988. Further, it must be noted that the applicant listed [REDACTED] as an employer from January 1981 to January 1988 at part #36 of the Form I-687 application where applicants were asked to list all employment in the United States since first entry. Although [REDACTED] testified that he employed the applicant after January 1989, he failed to corroborate the applicant's testimony that [REDACTED] was his employer from January 1981 to January 1988.

The applicant submitted an affidavit signed by [REDACTED]. [REDACTED] indicated that he and the applicant both lived at [REDACTED] in Los Angeles, California from May 1981 to

August 1985. While [REDACTED] testified that he and applicant resided at an address that corresponded to the address of residence listed by the applicant for this period at part #33 of the Form I-687 application, he failed to provide any additional verifiable testimony such as the circumstances under which he and the applicant first met.

The applicant provided a photocopied receipt dated December 19, 1984 that reflected the applicant's payment of a \$50.00 deposit to the Department of Water and Power for the City of Los Angeles for utility service at [REDACTED]. As noted above, both the applicant at part #33 of the Form I-687 application and [REDACTED] in his affidavit testified that the applicant resided at [REDACTED] from May 1981 to August 1985. No explanation has been provided as to why the applicant was paying a deposit for utility service in December of 1984 at an address that he never claimed as an address of residence.

The applicant included an affidavit that is signed by [REDACTED] and dated September 14, 1989. [REDACTED] declared that the applicant resided as a renter at [REDACTED], in Los Angeles, California from August 1985 through that date the affidavit was executed. While [REDACTED] testified to the applicant's residence in this country since August of 1985, he failed to attest to the applicant's residence in the United States in that period from prior to January 1, 1982 up to August 1985.

On July 23, 2001, the applicant filed his Form I-485 LIFE Act application. Subsequent to the filing of his Form I-485 LIFE Act application, the applicant submitted a letter from the State of California Department of Motor Vehicles that reflects he was first issued a California driver's license on July 9, 1984.

The applicant provided an affidavit dated April 14, 2003 that is signed by [REDACTED] the same individual whose affidavit of December 5, 1989 had been previously included with the Form I-687 application. In the most recent affidavit, [REDACTED] reiterated that he had knowledge that the applicant was self-employed contractor from 1981 to 1988 but failed to mention whether he himself had subsequently employed the applicant after January 1989 as he had testified in his prior affidavit. Additionally, [REDACTED] failed to state the circumstances under which he first met the applicant or the source of his knowledge relating to the applicant's employment in that period from 1981 to 1988. Moreover, [REDACTED] again failed to corroborate the applicant's testimony on the Form I-687 application that he was the applicant's employer from January 1981 to January 1988.

On November 1, 2004, the district director issued a notice of intent to deny to the applicant informing him of CIS's intent to deny his application because he failed to submit sufficient evidence of continuous unlawful residence in the United States from prior to January 1, 1982 through May 4, 1988. The applicant was granted thirty days to respond to the notice.

In response, the applicant provided submitted two new documents in support of claim of residence as well as a copy of a previously submitted document.

The applicant included an affidavit dated January 28, 2002 and a separate letter dated November 28, 2004 containing the letterhead of the 4<sup>th</sup> Revival Center Tridestone Church of God in Christ at [REDACTED] in Los Angeles, California that are both signed by [REDACTED]. In both documents, [REDACTED] asserted that he was the assistant pastor of the "Revival Center Tridestone Church of God in Christ." [REDACTED] noted that he had known and been acquainted with the applicant in the United States since 1981 as the applicant worked in the remodeling of the church from January 1981 to February 1982. [REDACTED] stated that he and the applicant had remained friends since. However, [REDACTED] failed to provide any detailed verifiable testimony to substantiate the applicant's claim of residence in this country for the requisite period in these documents.

The district director determined that the applicant failed to submit sufficient credible evidence demonstrating his residence in the United States in an unlawful status from January 1, 1982 through May 4, 1988, and, therefore, denied the Form I-485 LIFE Act application on December 2, 2004.

On appeal, counsel contended that the applicant has submitted sufficient evidence to support his claim of continuous residence in the United States from prior to January 1, 1982 through May 4, 1988 to CIS. Counsel asserts that an individual who provided supporting documents, [REDACTED] is willing to come forward and testify in person if needed to verify and reaffirm his prior testimony. However, it must be noted that the applicant subsequently submitted another letter December 31, 2004 containing the letterhead of the 4<sup>th</sup> Revival Center Tridestone Church of God in Christ at [REDACTED] in Los Angeles, California that is signed by [REDACTED]. In his most recent letter, [REDACTED] repeated his previous testimony that he was assistant pastor of this church and he had known and been acquainted with the applicant in the United States since 1981 as the applicant worked in the remodeling of the church from January 1981 to February 1982. [REDACTED] reiterated that he and the applicant had remained friends since. It is noted that the letterhead of the letter dated November 28, 2004 did not list [REDACTED] as assistant pastor of the church and listed the telephone numbers of the church as [REDACTED] and residence as [REDACTED]. However, the letterhead of the letter dated December 31, 2004 did list [REDACTED] as assistant pastor of the church and listed the telephone numbers of the church as [REDACTED] and residence as [REDACTED]. The fact that two letters executed within thirty-three days contain letterheads with conflicting information relating to this church raises questions regarding the authenticity of such letters and the testimony contained therein. In addition, the probative value of [REDACTED] testimony in these letters is further diminished as he failed to provide any specific and verifiable information to corroborate the applicant's claim of residence in this country since prior to January 1, 1982. Counsel failed to advance any compelling reason as to why any attempt should be made to contact [REDACTED] in light of the doubtful probative value of his testimony relating to the applicant's claim of residence.

Doubt cast on any aspect of the evidence may lead to a reevaluation of the reliability and sufficiency of the remaining evidence. It is incumbent upon an 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. *See Matter of Ho*, 19 I&N Dec. 582 (BIA 1988).

The absence of sufficiently detailed supporting documentation and the existence of conflicting testimony seriously undermine the credibility of the applicant's claim of residence in this country for the requisite period, as well as the credibility of the documents submitted in support of such claim. Pursuant to 8 C.F.R. § 245a.12(e), the inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. The applicant has failed to submit sufficient credible documentation to meet his burden of proof in establishing that he has resided in the United States since prior to January 1, 1982 to May 4, 1988 by a preponderance of the evidence as required under both 8 C.F.R. § 245a.12(e) and *Matter of E- M-*, 20 I&N Dec. 77.

Given the applicant's reliance upon documents with minimal or no 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 as required under section 1104(c)(2)(B) of the LIFE Act. The applicant is, therefore, ineligible for permanent resident status under section 1104 of the LIFE Act on this basis.

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