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U.S. Citizenship  
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[REDACTED]

FILE: [REDACTED]  
MSC 02 250 60924

Office: INDIANAPOLIS

Date: MAR 17 2008

IN RE: Applicant: [REDACTED]

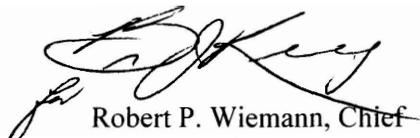
APPLICATION: Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), amended by LIFE Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000).

ON BEHALF OF APPLICANT:

[REDACTED]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. 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, Indianapolis, Indiana. The application was subsequently reopened and denied again by the District Director, Indianapolis, Indiana. It 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 there should be sufficient information in the file to allow for the approval of the applicant's application.

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 December 6, 2005, the director stated that the applicant failed to submit evidence demonstrating his continuous unlawful residence in the United States during the requisite period. The director noted that the applicant only submitted affidavit letters. 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 28, 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. An employment statement from [REDACTED]
2. Statements from [REDACTED], and an illegible signed statement.

#### Employment Letter

The applicant submitted an August 7, 1990 letter from [REDACTED] Owner of [REDACTED]. According to [REDACTED] the applicant worked at his store as a Helper/Delivery person from August 1981 until December 1989. The letter from [REDACTED] has little evidentiary weight or probative value as it does not provide basic information that is expressly required by 8 C.F.R. § 245a.2(d)(3)(i). Specifically, [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 ten declarations. The applicant submitted an affidavit from [REDACTED] [REDACTED] in which he stated that the applicant resided in his building at [REDACTED] Jackson Heights, Queens from 1981 until 1988. However, the applicant failed to provide any contemporaneous evidence in support of this claim.

The applicant submitted sworn affidavits by [REDACTED], and Mr. [REDACTED]. All these affiants stated that they have known the applicant since 1981 and that the applicant has been a continuous resident of the United States since that time.

The applicant also submitted an affidavit by [REDACTED]. [REDACTED] states that the applicant was her customer at [REDACTED] for a number of years. The applicant submitted affidavits from [REDACTED] and two affidavits from [REDACTED], [REDACTED] and [REDACTED] state that they have known the applicant since 1981.

The applicant submitted a May 7, 2003 statement by [REDACTED], who stated that the applicant has been a member of the Sikh Cultural Society, Inc. from 1981 to 1989 and that the applicant came to [REDACTED] regularly. [REDACTED] also lists the applicant's address at the time as [REDACTED], Indiana. According to [REDACTED], the records for the Center were destroyed in a 2002 fire, but he is able to attest to the applicant's membership because of his personal knowledge of the individual and his stewardship of the now destroyed records. However, the applicant submitted another affidavit that was illegibly signed in which the signatory stated that the applicant was a member of another Sikh congregation from August 1981 until January 1990. The illegible signed affidavit has little evidentiary weight or probative value as it does not provide basic information that is expressly required by 8 C.F.R. § 245a.2(d)(3)(v). Specifically, the pastor does not explain the origin of the information to which he attests, nor does he provide the address where the applicant resided during the period of his involvement with the church. It is also noted that [REDACTED] indicates the applicant resided at an address in Indiana while a member of the Center located in New York. However, the applicant indicates on his Form G-325, Biographic Information that he did not live at this address until 1995. 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 a November 21, 2005 statement from [REDACTED] and an August 22, 1990 statement from [REDACTED]. [REDACTED] stated that he treated the applicant on December 11, 1986 for the first time and again on August 19, 1987 and on April 2, 1988. [REDACTED] stated that the applicant has been his patient since November 1981. [REDACTED] can only attest to the applicant's

presence in the United States since December 11, 1986. Therefore, his statement is of little or no probative value in establishing the applicant's continuous residence and continuous physical presence in the United States during the qualifying periods. [REDACTED]'s statement is of little probative value because he fails to offer any corroborative evidence regarding his treatment of the applicant.

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.

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 May 4, 1988, 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.