



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
MSC 02 247 67210

Office: DALLAS

Date: MAY 22 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:

SELF-REPRESENTED

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 District Director, Dallas, Texas, denied the application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act. In a subsequent appeal, the Administrative Appeals Office (AAO) remanded the application to the district office for issuance of a new decision. The director denied the application for permanent resident status and certified her decision to the AAO. The director's decision will be affirmed.

The director denied the application because the applicant failed to establish that he satisfied the "basic citizenship skills" required under section 1104(c)(2)(E) of the LIFE Act. The AAO affirmed the director's decision denying the LIFE Act application, but remanded the record for a determination as to the applicant's eligibility for adjustment of status to that of a temporary resident pursuant to 8 C.F.R. § 245a.6.

On remand, the applicant failed to respond to the director's November 24, 2007, Notice of Intent to Deny (NOID). The applicant submits no additional documentation on certification.

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.

On a form to determine class membership, which he signed under penalty of perjury on June 2, 1990, the applicant stated that he first arrived in the United States on September 11, 1981, when he crossed the border without inspection. On his Form I-687, Application for Status as a Temporary Resident, which he also signed under penalty of perjury, the applicant denied having left the United States at any time during the qualifying period, and stated that he lived at [REDACTED] in Dallas, Texas throughout the qualifying period. The applicant also stated that from September 11, 1981, to November 14, 1985, he worked for [REDACTED] at [REDACTED]; and from November 15, 1985, until the date of his Form I-687 application, he worked for [REDACTED] at [REDACTED]. The applicant did not identify the cities in which he worked, his job duties, or the nature of the businesses in which he worked.

In an attempt to establish continuous unlawful residence since before January 1, 1982, through May 4, 1988, the applicant submitted affidavits from five individuals who stated that they were friends of the applicant and that they knew that he had lived in Dallas, Texas from September 11, 1981. The affidavits do not provide any details as to the circumstances surrounding the affiants' initial acquaintance with the applicant or the basis of their knowledge concerning the applicant's entry and continued residency in the United States. The applicant also submitted an affidavit from [REDACTED], in which he stated that he was the applicant's landlord at [REDACTED] in Dallas. The applicant submitted affidavits from [REDACTED] and [REDACTED] in which they stated that the applicant worked as a houseman, and that they were the "owners." All of the affidavits submitted by the applicant are dated June 2, 1990. Additionally, the affidavits submitted by [REDACTED] and [REDACTED] do not meet the requirements of 8 C.F.R. § 245a.2(d)(3)(i) in that they do not provided the applicant's address at the time of his employment or indicate the source of the information about the applicant's employment.

In her NOID of November 24, 2007, the director notified the applicant that CIS was unable to verify the information provided in the affidavits submitted on his behalf and that the documentation he submitted was not sufficient to meet his burden of proof. The applicant was given 30 days in which to submit additional evidence to address the deficiencies in his evidence but failed to respond. The director, therefore, denied the application on January 14, 2008. The applicant submits no additional documentation on certification.

As discussed above, evidence is evaluated not only on its quantity but also by its quality. 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. Although informed in a NOID that CIS could not verify the statements made by his affiants, the applicant provided no new contact information or other documentation that could assist CIS in verifying the information provided in the affidavits. 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.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 submitted no contemporaneous documentation to verify his continued presence and residence in the United States during the required period. 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 during the requisite period.

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. Given this, he has not established that he is eligible for adjustment of status to that of a temporary resident pursuant to 8 C.F.R. § 245a.6.

As noted in the AAO's previous decision, the record reflects that the applicant was arrested by the Garland, Texas Police Department on February 16, 1991, for driving while intoxicated; and by the Dallas Police Department on December 3, 1999, for failure to stop and give information. The applicant also admitted to arrests in 1987 for driving while intoxicated and domestic dispute. The record does not reflect a final disposition of these offenses. The applicant failed to submit information relating to these arrests as requested by the district director in a March 13, 2003, request for evidence. Therefore, the applicant failed to establish his admissibility, as required by the Act.

ORDER: The director's January 14, 2008, decision is affirmed. The application is denied. This decision constitutes a final notice of ineligibility.