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U.S. Citizenship  
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Services

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*LR*

[REDACTED]

FILE:

[REDACTED]

Office: ST. PAUL

Date:

**MAY 22 2008**

MSC 02 029 64254

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, St. Paul, 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 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 denial was incorrect because it was based on an incorrect interpretation of the affidavits, which were to confirm the Applicant's presence in the United States since August 1979.

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).

In the Notice of Intent to Deny (NOID), dated on June 17, 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 noted that the applicant's record contained several discrepancies regarding the applicant's places of residence during the requisite period. The director granted the applicant thirty (30) days to submit additional evidence. The record reflects that additional evidence was received. In the Notice of Decision, dated on September 28, 2005, 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 entered the United States before January 1, 1982, and continuously resided in an unlawful status in the United States during the requisite period. Here, the applicant has failed to meet this burden.

In connection with the his Form I-485 application, the applicant submitted two virtually identical fill-in-the blank affidavits of residency from [REDACTED] and [REDACTED], dated on December 28, 1989. Both affiants stated that they have first-hand knowledge of the applicant since 1979 and that he resided with them from August 1979 to September 1989 on his arrival from Pakistan. The affiants provided their current places of residence.

The applicant also submitted an affidavit of residency from [REDACTED], dated on July 13, 2005. The affiant stated that she has first-hand knowledge of the applicant since 1979 and that he resided with her from August 1979 to November 1986 on his arrival from Pakistan. The affiant provided her current place of residence. This affidavit affirms the affiant's previous undated affidavit.

In the NOD, the director noted that the above affidavits were contradictory with the applicant's own testimony in his Form I-687, Application for Temporary Resident Status pursuant to Section 245A of the Immigration and Nationality Act, dated on December 28, 1989. On appeal, counsel, on behalf of the applicant, asserts that the affidavits in the record are not inconsistent and reconciles the perceived discrepancy. In the NOD, the director incorrectly viewed the affiants' stated places of residence as also the applicant's places of residence during the requisite period. However, the AAO finds that the affiants only stated their current places of residence and not the applicant's place of residence during the statutory period. Therefore, the affidavits do not contradict the applicant's testimony in his Form I-687.

However, the AAO finds that the affidavits failed to include any details regarding the applicant's place of residence during the requisite period. Although not required, none of the affidavits included any supporting documentation of the affiant's 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 affidavits provide minimal probative value.

On appeal, counsel submitted a two affidavits from [REDACTED] and [REDACTED]. [REDACTED], the applicant's wife, stated that she has been married to the applicant since 1962. She stated that the applicant left for the United States in August 1979 and has resided in the United States since that time. She provided her place of residence in the United States. The affidavit corroborates the applicant's claimed date of entry into the United States, but failed to any supporting documentation to substantiate both their claims. The affidavit provides minimal probative value. The lack of details and supporting documentation detract from the credibility of the affiant.

Counsel also submitted a second affidavit from [REDACTED] dated on February 2, 2006. The affiant reaffirmed her previous affidavit. She also stated that the applicant lived with her and her family from the summer of 1979 to July 1985 and from October 1988 to September 1989, and she provided her places of residence during those times. She further stated that she married the applicant's son, [REDACTED], in 1990. Although not required, the affidavit failed to include any supporting documentation of the affiant's presence in the United States during the requisite period. The affiant failed to include the affiant's current place of residence or any other contact information. The affidavit is not verifiable.

Although the applicant has submitted several affidavits in support of his application, the applicant has not provided sufficient probative 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. Here, the affiants, all of whom are related, failed to provide sufficient details or supporting documentation to corroborate the applicant's claim. It is also noted that the applicant's Form I-687 indicated that he was employed throughout the requisite period, as well as affiliated with an Islamic Center during the requisite period. The applicant did not submit such documentation to substantiate his claim. 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. 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 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.