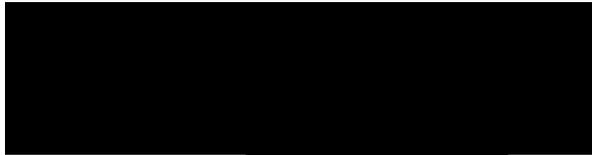




U.S. Citizenship  
and Immigration  
Services

**identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy**

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FILE:



Office: DALLAS

Date:

**MAY 23 2008**

MSC 02 169 63179

[Redacted] – consolidated herein]

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 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, Dallas, Texas. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The district director denied the application on the ground that the applicant failed to establish that he had entered the United States before January 1, 1982, and had resided continuously in the United States from then through May 4, 1988.

On appeal, counsel for the applicant submits a brief statement and additional documentation.

To be eligible for adjustment to permanent resident status under the LIFE Act applicants must establish their continuous unlawful residence in the United States from before January 1, 1982 through May 4, 1988, and their continuous physical presence in the United States from November 6, 1986 through May 4, 1988. *See* section 1104(c)(2)(B)(i) and (C)(i) of the LIFE Act, 8 U.S.C. § 245A(a)(2)(A) and (3)(A).

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 its amenability to verification. *See* 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 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.

The regulations at 8 C.F.R. § 245a.2(d)(3) provide an illustrative list of contemporaneous documents that an applicant may submit. While affidavits “may” be accepted (as “other relevant documentation”) [*See* 8 C.F.R. § 245a.2(d)(3)(vi)(L)] in support of the applicant’s claim, the

regulations do not suggest that such evidence alone is necessarily sufficient to establish the applicant's unlawful continuous residence during the requisite time period.

According to the guidelines set forth in 8 C.F.R. § 245a.2(d)(3), a signed attestation should contain (1) an identification of the applicant by name; (2) the dates of the applicant's continuous residence to which the affiant can personally attest; (3) the address(es) where the applicant resided throughout the period which the affiant has known the applicant; (4) the basis for the affiant's acquaintance with the applicant; (5) the means by which the affiant may be contacted; and, (6) the origin of the information being attested to. *See* 8 C.F.R. § 245a.2(d)(3)(v).

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.

The applicant filed his application for permanent resident status under the LIFE Act (Form I-485) on March 18, 2002. In support of his application, the applicant provided three affidavits from acquaintances (█, and █) dated June 1990.

In the Notice of Intent to Deny (NOID), dated September 20, 2005, the district director noted that none of telephone numbers provided by the affiants was in service on August 19, 2005. The district director further noted that the applicant claimed to have entered the United States (in 1981) at the age of 13 and worked as a day laborer until February 1988; however, he had indicated on a Form I-687, Application for Status as a Temporary Resident (signed in May 1988), that he had only been employed in the United States since October 1986, with July 1986 as his date of entry. The director granted the applicant thirty (30) days to submit additional evidence in support of his application. The record reflects that the applicant failed to respond to the notice.

On December 12, 2005, the district director denied the application on the ground that the applicant did not respond to the NOID and therefore had failed to establish that he entered the United States before January 1, 1982, and had resided continuously in the United States from then until May 4, 1988. The applicant, through counsel, filed a timely appeal on January 25, 2006.

On appeal, the applicant states that he has made efforts to locate the affiants, Ms. █ and Mr. █, but cannot find anyone who has records of his residence in the United States since 1981. In support of the appeal, the applicant submits two additional affidavits from acquaintances (█ and █) stating that they have known the applicant since 1980 and 1983, respectively.

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 from before January 1, 1982 through May 4, 1988. The AAO concludes that he has not.

The applicant has not provided any contemporaneous evidence for the years 1982-1988 that demonstrates his residence in the United States during that time. The only documentation contained in the record to establish the applicant's presence in the United States during the requisite period consists of affidavits. The absence of detailed documentation to corroborate the applicant's claim of continuous residence and continuous physical presence for the requisite time period detracts from the credibility of his claim. In accordance with 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 its amenability to verification. Given the applicant's reliance upon minimal documentation with little probative value, he has failed to establish his continuous residence in an unlawful status in the United States from before January 1, 1982 through May 4, 1988.

Thus, the applicant has failed to establish his entry into the United States prior to January 1, 1982, and his continuous unlawful residence in the United States for the time period specified in section 1104(c)(2)(B)(i) of the LIFE Act, 8 U.S.C. § 245A(a)(2)(A). Accordingly, the applicant is ineligible for permanent resident status under the LIFE Act.

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