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U.S. Department of Homeland Security  
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U.S. Citizenship  
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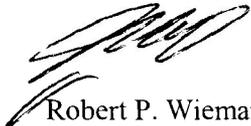
IN RE: Applicant: [Redacted]

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 District Director, Dallas, Texas, denied the application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act. The matter 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 show entry into the United States prior to January 1, 1982. The director found that the applicant's first recorded entry into the United States was on October 18, 1988, as a B-2 visitor at Chicago, Illinois. Finally, the director found that the applicant failed to provide credible and verifiable evidence of his unlawful presence during the required time period before January 1, 1982, through May 4, 1988.

On appeal, the applicant asserts that the denial of his application was unjust and submits a copy of his old passport and a copy of his new passport.

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.

The record reflects that on May 3, 2002, the applicant submitted a Form I-485, Application to Register Permanent Residence or Adjust Status. On August 23, 2004, the applicant appeared for an interview based on his application. That same day, the director issued the applicant a Request For Evidence (RFE), requesting that the applicant submit a medical exam and additional documents establishing presence in the United States before January 1, 1982, through May 4, 1988. In response, the applicant submitted a copy of a lease agreement for a term beginning September 1, 1987, and ending August 31, 1988; and copies of receipts from Valley View Farm dated June 19, 1985, October 7, 1985, and November 23, 1985.

On, January 13, 2006, the director issued a Notice of Intent to Deny (NOID) the application, finding the applicant failed to show entry into the United States prior to January 1, 1982. The director also found that the applicant’s first recorded entry into the United States was on October 18, 1988, as a B-2 visitor at Chicago, Illinois. Finally, the director found that the applicant failed to provide credible and verifiable evidence of his unlawful presence during the required time period before January 1, 1982, through May 4, 1988. The director informed the applicant that he had 30 days from the receipt of the NOID to submit evidence to overcome the director’s intent to deny his application. The applicant did not respond to the director’s request.

On April 11, 2006, the director denied the application, finding that the applicant failed to overcome the grounds for denial as stated in the NOID.

On appeal, the applicant asserts that the denial of his application was unjust and submits a copy of his old passport and a copy of his new passport.

The issue in this proceeding is whether the applicant has provided sufficient credible evidence to demonstrate that he was continuously physically present in the United States during the requisite period.

In addition to the documents submitted in response to the August 23, 2004, RFE, the record of proceeding contains several affidavits previously submitted with the applicant's Form I-687, Application for Status as a Temporary Resident. The following evidence relates to the requisite period:

#### Employment Letters

- A letter dated March 20, 1986, from [REDACTED], attesting that the applicant had worked for him at the [REDACTED] in Brooklyn, New York, from March 1981, until July 1984. [REDACTED] attested that the applicant worked as a kitchen helper until September 1982, and as a busboy from September 1982 to July 1984. He attested that the applicant was very reliable and hardworking;
- A letter, notarized on November 20, 1991, from [REDACTED], attesting that the applicant worked at the [REDACTED] in Long Island City, New York, as stock assistant from October 1984, to September 1986; and,
- A letter dated November 10, 1991, from [REDACTED] attesting that the applicant had worked as a kitchen helper at the [REDACTED] in New York City from October 1986, until September 1987. Mr. [REDACTED] attested that the applicant was a very hardworking person.

These letters can be given little evidentiary weight because they lack sufficient detail and information required by the regulations. Specifically, all of the employers failed to provide the applicant's address at the time of his employment as required under 8 C.F.R. § 245a.2(d)(3)(i). Under the same regulations, the employers also failed to declare which records their information was taken from, to identify the location of such records, and to state whether such records are accessible, or, in the alternative state the reason why such records are unavailable. In addition, the letters listed his positions but did not list the applicant's duties.

#### Letters and Affidavits

- A fill-in-the-blank affidavit from [REDACTED], the applicant's former roommate, dated September 25, 1992. Mr. [REDACTED] stated that he knew the applicant since the early 1970's and that the applicant lived with him from February 1981, to August 1987. He stated that he saw the applicant every day since early 1981. He stated that he and the applicant attended the same mosque and they participated in social and cultural activities together;
- A fill-in-the-blank affidavit from [REDACTED] the applicant's former roommate, dated September 25, 1992. Mr. [REDACTED] stated that he knew the applicant over the past 20 years and that he was a neighbor in Bangladesh. Mr. [REDACTED] stated that the applicant stayed with him from September 1987, to August 1991; and,

- A brief letter from [REDACTED] the applicant's former roommate, notarized on September 30, 1992. Mr. [REDACTED] attested that the applicant was known to him for the last five years. He attested that the applicant shared an apartment with him from August 1992.

These letters can be given little evidentiary weight because they lack sufficient detail. Mr. [REDACTED] states that the applicant lived in the above address for seven years, but lists two addresses, his own current address in Kissimmee, Florida, and the applicant's address in New York. He does not specify which address they lived together in. Mr. [REDACTED] provided no other details about the applicant's life there.

Neither Mr. [REDACTED] nor Mr. [REDACTED] provided the addresses where the applicant lived during all the years they knew him, nor did they specify how frequently they saw the applicant or under what circumstances they saw him.

- The applicant submitted a letter from [REDACTED] president at of the Islamic Council of America, Inc., in New York, New York. In the letter, dated January 5, 1992, [REDACTED] stated that the applicant was personally known to him for a long time and that the applicant occasionally performed his prayers at their mosque. Mr. [REDACTED] provided the applicant's date of birth.

This letter can be given little evidentiary weight and has little probative value as it does not provide basic information that is expressly required by 8 C.F.R. § 245a.2(d)(3)(i). Specifically, Mr. [REDACTED] 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 mosque. Furthermore, Mr. [REDACTED] does not state when he met the applicant or the dates during which the applicant prayed at the mosque.

The documents submitted in response to the August 23, 2004, RFE can be given little weight as they are of little probative value. The lease showed that the applicant may have rented an apartment in New York from September 1, 1987 to August 1, 1988. The receipts may be evidence that he purchased food from a warehouse in Brooklyn, New York, from June 1985 to November 1985, but do not contain the applicant's address.

Although the applicant has submitted numerous letters and affidavits in support of his application, he 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 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 record of proceedings contains various other documents, including a letter, dated September 15, 1992, from [REDACTED] of Golden Jet Travel in Delray Beach, Florida, attesting that the applicant worked with him as an independent sales agent on a per ticket commission basis from September 1991, to July 1992. This evidence does not address the applicant's qualifying residence or physical presence during the eligibility period in question, specifically from before January 1, 1982, through May 4, 1988.

The remaining evidence in the record is comprised of the applicant's statements and application forms, in which he claims to have last entered the United States, without inspection through Florida, on July 27, 1987, and to have resided for the duration of the requisite period in New York and Florida. As noted above, to meet his burden of proof, the applicant must provide evidence of eligibility apart from his own testimony. The applicant has failed to do so.

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.