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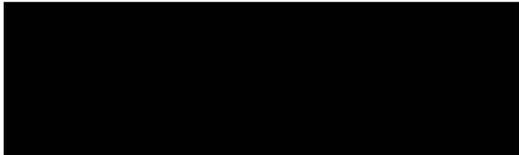
IN RE: Applicant:



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. 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.

A handwritten signature in black ink, appearing to read "R. Wiemann".

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, 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 since such date through May 4, 1988.

On appeal, counsel asserts that a few minor inconsistencies in the record and the inability of the director to contact the affiants should not discredit their testimonies. Counsel contends that the applicant has submitted sufficient evidence to establish his claim.

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)(v) states that letters from churches, unions or other organizations attesting to the applicant's residence must: identify the applicant by name; be signed by an official whose title is shown; show inclusive dates of membership; state the address where the applicant resided during membership period; include the seal of the organization impressed on the letter or the letterhead of the organization; establish how the author knows the applicant; and establish the origin of the information being attested to.

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 April 12, 2006, the director stated that the applicant submitted only affidavits to establish his claim. The director was unable to verify the affidavits and, therefore, determined that the applicant failed to establish his claim. 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 August 3, 2006, the director determined that the additional evidence failed to provide any explanation for the discrepancies in the record. The director denied the instant applicant.

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 support of his claim, the applicant submitted the following relevant evidence:

1. A May 13, 2004, affidavit from [REDACTED] who stated that he has known the applicant since 1985. The affiant also stated that the applicant had been a leader in the Ultreya and Group Reunion at St. Luke's, Catholic Church in Irving, Texas, for 16 years. The affiant provided his telephone number. The affiant failed to show inclusive dates of membership, state the address where the applicant resided during membership period, include the seal of the organization impressed on the letter or the letterhead of the organization, and establish the origin of the information being attested to as required under the regulation at 8 C.F.R. § 245a.2(d)(3)(v). It is also noted that the applicant did not indicate that he was affiliated with the above church in

his Form I-687, Application for Application for Temporary Resident Status pursuant to Section 245A of the Immigration and Nationality Act signed by the applicant on July 8, 1993. The lack of sufficient details in the affidavit and the discrepancy with the applicant's Form I-687 bring into question the credibility of the affiant.

2. A declaration from [REDACTED], who stated that the applicant had been a patient for over 20 years. [REDACTED] stated he saw the applicant in the eighties (80s) but no longer had those records. [REDACTED] stated that his current records date back to the beginning of the 1990s. [REDACTED] provided his business address. This declaration provides minimal probative value. There declaration failed to indicate if the applicant was seen in the early 1980s or the late 1980s. The absence of an exact date during the requisite period, the applicant's medical records, or sufficient details to support the declarant's claim detracts from his credibility.
3. An April 22, 1990, affidavit from [REDACTED], who stated that the applicant was employed at his farm as a laborer from February 25, 1981, through December 15, 1989. The affiant stated that the applicant picked and hauled watermelons. The affiant provided his address and telephone number. The affidavit failed to provide the applicant's address at the time of employment, 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 the regulation at 8 C.F.R. § 245a.2(d)(3)(i). In addition, the affidavit failed to include any supporting documentation to lend credibility to the affiant, such as pay stubs, timesheets, receipts, etc. The lack of details detracts from the credibility of the affiant.
4. An April 15, 2006, affidavit from [REDACTED], who stated that she has known the applicant in the United States since February 1981, when he called from Oklahoma where he was working. The affiant also stated that the applicant would visit her on weekends whenever he was off. The affiant provided her place of address and telephone number. This affidavit reaffirms the affiant's previous notarized declaration dated on April 24, 2004. It is noted that the when contacted to verify her affidavit, the persons answering the phone severed communication. On appeal, [REDACTED] provided another affidavit affirming her previous statements and apologizing for one of her daughters hanging up the phone. [REDACTED] statements provide limited probative value. She failed to include the applicant's place of residence during the requisite period. Although not required, the affidavit failed to include any supporting documentation of the affiant's presence in the United States during the requisite period.
5. An April 23, 2004, declaration from [REDACTED] manager at Vintage Car Wash, who stated that the applicant has been a friend since 1981 and employee since 1990. The declarant provided his business address and telephone number. [REDACTED] was contacted on April 1, 2006, to verify the applicant's employment. [REDACTED] stated

that the applicant's records dated back to 1990, but he did not remember how long prior to the employment records that he had been acquainted with the applicant. The inconsistency between the declarant's statements detracts from his credibility. The declarant failed to indicate how he dated his acquaintance with the applicant, how he met the applicant or how frequently he saw the applicant. Although not required, the declaration failed to include any supporting documentation of the affiant's presence in the United States during the requisite period. The lack of details and discrepancy detract from the credibility of the declarant.

6. An April 20, 2004, declaration from Simcha Catering (signature illegible), which stated that the person writing the declaration had known the applicant since 1982. The letter is on company letterhead and contains the business address and telephone number. As the signature is not legible and there is no name on the letter, the declaration cannot be verified. This declaration provides minimal probative value.
7. An April 20, 2006, affidavit from [REDACTED] who stated that he had known the applicant since 1982. Mr. [REDACTED] stated that he knew the applicant through a fellow employee, [REDACTED]. On August 2, 2006, [REDACTED] was contacted and he did not recall [REDACTED]. He stated that he knew the applicant for about 15 years (1991). He stated that he knew the applicant from the carwash, which the applicant started working for in 1990. This affidavit provides little probative value as the affiant could not recall or provide any details regarding the applicant's residence in the United States prior to 1990.

Although the applicant has submitted several affidavits in support of his application, the applicant has not provided sufficient probative evidence of entry into the United States prior to January 1, 1982, and continuous unlawful 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. 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. In addition, the discrepancies between the applicant's own statements and those of his affiants further detract 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.