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U.S. Citizenship  
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FILE:

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**MAY 30 2008**

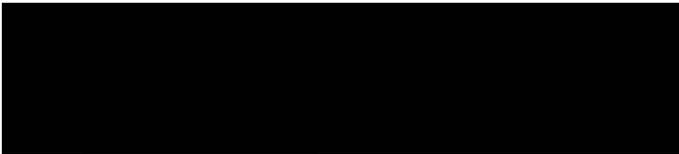
IN RE: Applicant:



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.

A handwritten signature in black ink, appearing to read "Robert P. 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, New York, New York, 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, the applicant asserts that the director failed to consider all of the evidence submitted by the applicant as required by 8 C.F.R. § 245a.12(f). The applicant provided copies of previously submitted evidence for consideration.

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.

In the Notice of Intent to Deny (NOID), dated April 28, 2007, the director stated that the applicant failed to submit evidence demonstrating his continuous unlawful residence in the United States during the requisite period. The director granted the applicant thirty (30) days to submit additional evidence. The record reflects that the applicant submitted additional affidavits in support of his claim. In the Notice of Decision, dated June 2, 2007, 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 continuously resided in the United States in an unlawful status during the requisite period. The applicant submitted letters of employment and affidavits as evidence to support his Form I-485 application. Here, the applicant has failed to meet this burden.

#### Employment Letters

The applicant submitted an undated letter from [REDACTED] the manager at Mughul Restaurant, [REDACTED] Woodside, New York. Mr. [REDACTED] claimed that the applicant was employed as a cook from December, 1980 to May, 1987, with a salary of \$3.00 an hour. The letter was notarized on August 15, 1990. The applicant also submitted a letter dated September 2, 1990, from [REDACTED], the President of Creative Building and Remodeling Co., [REDACTED], Oakland, California. Mr. [REDACTED] stated that the applicant was employed as a carpenter from September, 1987 to July, 1990, with a salary of \$5.00 an hour. Neither letter provides the applicant's address at the time of employment, show periods of layoff, 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 8 C.F.R. § 245a.2(d)(3)(i). Consequently, the applicant's inability to provide authentic letters of employment from verifiable sources seriously undermines the credibility of his claim of continuous unlawful residence during the requisite period.

### Affidavits

The applicant submitted eight affidavits from friends and acquaintances who allege that the applicant has resided in the United States for the requisite statutory period. Three of the forms are titled "Affidavit of Residence" and provide very similar information. These affidavits are submitted from [REDACTED] and [REDACTED]. All attest that the applicant lived with each of them for various periods of time from December, 1980 to September, 1990. Each statement avers that all of the rent receipts and household bills are in their name and that the applicant contributed money towards the payment of these bills.

The applicant also submitted an Affidavit for Determination of Class Membership in *CSS v. Meese* that contains an affirmation from [REDACTED]. Mr. [REDACTED] avers that he personally knows the applicant, and also that the applicant departed the United States on May 15, 1987 for a family visit to Pakistan, and returned on June 20, 1987.

The four remaining affidavits were submitted by [REDACTED] and [REDACTED]. Mr. [REDACTED] asserts that he first met the applicant in January, 1981 at the Pakistan Consular Office in Manhattan, New York. Mr. [REDACTED] claims to have engaged the applicant to cook food for a family gathering in May, 1981. Mr. [REDACTED] states that he first met the applicant in Maspeth, New York in May, 1981. [REDACTED] alleges that he knew the applicant from January, 1985 to sometime in 1987. Ultimately, the last affidavit was submitted by [REDACTED]. Mr. [REDACTED] lists the applicant's present address, and asserts that he has known him personally since 1984 to the present. None of the affiants provided any meaningful information regarding how they date their acquaintance with the applicant, or how often they had contact with him during the requisite period. Overall, the affidavits are significantly lacking in any details that would lend credibility to the affiants' claims of a long-time friendship with the applicant, and it is unclear on what basis they claim to have direct and personal knowledge of the events and circumstances of the applicant's residence in the United States. As such, these affidavits can be afforded minimal weight as evidence of the applicant's residence in the United States for the requisite period.

The record contains an application for asylum and withholding of removal signed by the applicant on April 8, 2008. In Part A, Question #18(c), the applicant states that he first entered the United States without inspection at New York in 1990. In Part B, Question #1.B the applicant states, "I came to the US (sic) in 1990 and this has been my home ever since." In Part F, the applicant swore under penalty of perjury that the information contained therein was true and correct. This inconsistency casts doubt on the applicant's claim to have resided in the United States during the requisite period. Doubt cast on any aspect of the applicant's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

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.** Furthermore, the information contained in the application for asylum contradicts the applicant's evidence of residency. 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, and the evidence of contrary information, 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.