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U.S. Citizenship
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Services

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FILE: [REDACTED]
MSC 03 083 60223

Office: ATLANTA

Date: **MAY 30 2008**

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: SELF-REPRESENTED

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, Atlanta, Georgia, 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, and maintained continuous physical presence in the United States from November 6, 1986 to May 4, 1988.

On appeal, the applicant reasserts his eligibility. The applicant states that he has submitted all of the available evidence. He submits additional evidence on appeal.

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 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), 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 submitted an apartment lease which does not support information listed on the applicant's G-325A, Biographic Information Form. The director granted the applicant thirty (30) days to submit additional evidence.

As noted by the director in his denial decision, the record does not reflect a response to the NOID. No additional evidence was received. In the Notice of Decision, dated August 31, 2006, the director denied the instant application based on the reasons stated in the NOID.

On appeal, the applicant submits an undated letter from [REDACTED], notarized by [REDACTED] on September 12, 2006, stating that he has known the applicant since the end of 1983, and that the applicant lived in New York from 1983 through 1986; a letter from [REDACTED] dated September 15, 2006, and notarized by [REDACTED] on September 12, 2006, stating that she knew the applicant as he lived with them in New York from March 1982 to May 1982; an undated letter from [REDACTED] notarized on December 4, 2005 by [REDACTED] stating that he has known the applicant since February 1987; and, an undated letter from [REDACTED] stating that she has known the applicant since January 1987.

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 a photocopy of a page of three apartment leases, and affidavits as evidence to support his Form I-485 application. Here, the submitted evidence is not relevant, probative, and credible.

Apartment Leases

The applicant submitted the first pages to three unsigned apartment leases. The first lease, dated January 1, 1981, is for an apartment located at [REDACTED], Brooklyn, NY 11230, for the term January 1, 1981, and ending January 1, 1982; the second lease, dated April 15, 1982, is for an apartment located at [REDACTED], Brooklyn, NY 11218, for the term April 15, 1982, and ending April 15, 1984; and, the third lease, dated April 15, 1984, is for an apartment located at [REDACTED], Brooklyn, NY 11218, for the term April 15, 1984, and

ending April 15, 1986. It is noted that only one page (page # 1) of each lease is provided, and none of the leases are signed. As also noted by the director, the applicant submitted a G-325A, Biographic Information Form, which is inconsistent with the information provided on the leases. For example, the G-325A states that the applicant lived at [REDACTED], Brooklyn, NY, from January 1981 until April 1985, and resided at [REDACTED], Brooklyn, NY, from December 1985 March 1987. However, the leases indicate that the applicant resided at an apartment located at [REDACTED], Brooklyn, NY 11230, during the period January 1, 1981, to January 1, 1982, and at [REDACTED], Brooklyn, NY, from January 1, 1981, and ending January 1, 1982. Therefore, these leases cannot be deemed credible and are not probative.

Affidavits and Letters

The applicant submitted notarized letters on appeal which do not pertain to the requisite period. The letter from [REDACTED], attests to knowing the applicant since the end of 1983, and that the applicant lived in New York from 1983 through 1986. However, [REDACTED] does not attest to knowing the applicant in the United States from before January 1, 1982, and does not state whether the applicant has been a continuous resident of the United States since that time through May 4, 1988; the letter by [REDACTED] states only that she knew the applicant as he lived with them in New York from March 1982 to May 1982. The letter does not pertain to the period from before January 1, 1982, and the affiant does not indicate whether the applicant has been a continuous resident of the United States since that time through May 4, 1988; the undated letter from [REDACTED] states only that he has known the applicant since February 1987; and, the undated letter from [REDACTED], states that she has known the applicant since January 1987.

In addition, the applicant submitted a sworn affidavit from [REDACTED] dated August 24, 1991. [REDACTED] attests to knowing the applicant since July 1, 1981. However, the affiant does not indicate how he dates his acquaintance with the applicant, and he fails to state whether the applicant has been a continuous resident of the United States since that time.

The applicant also submitted a notarized letter from [REDACTED], dated August 31, 1991. Mr. [REDACTED] attests to knowing the applicant in the United States since June 1981. The affiant states that since that time he occasionally met the applicant in New York. However, he does not state whether the applicant has been a continuous resident of the United States since that time.

Employment Letter

The applicant submitted a letter of employment from [REDACTED], a contractor, notarized on September 16, 1991, stating that the applicant worked with him from January 1981 to March 1987. [REDACTED] failed to 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). Mr. [REDACTED] states that the applicant resided at [REDACTED], Brooklyn, NY 11218 during the period of employment. However, as noted above, the applicant submitted a lease indicating that he resided at [REDACTED], Brooklyn, NY, from

December 1985 March 1987. This casts doubts on whether the affiant ever employed the applicant as he claims.

Although the applicant has submitted letters and affidavits in support of his application, the applicant 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 provided any reasonable detail of how they dated their acquaintance with the applicant, how they met the applicant or how frequently they saw the applicant. 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.2(d)(5), the inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. In addition, although the applicant claims that he has resided in the United States since July 1981, the applicant has not provided any contemporaneous evidence in support of his claim. It is reasonable to expect that the applicant would be able to provide some reliable contemporaneous documentation if he has been in the United States since 1980 as he claims. 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 from prior to January 1, 1982, through May 4, 1988.

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.