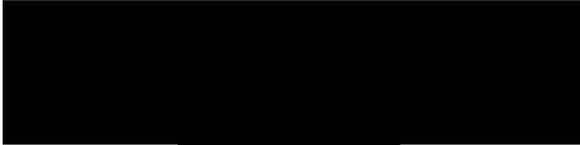


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**U.S. Citizenship
and Immigration
Services**

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LL

FILE:



Office: LOS ANGELES

Date:

MAY 30 2006

MSC 02 254 60801

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.

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, Los Angeles, California, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The district director concluded that the applicant had not established that he resided in the United States in a continuous unlawful status from before January 1, 1982, through May 4, 1988, as required by section 1104(c)(2)(B) of the LIFE Act, and was continuously physically present in the United States from November 6, 1986, through May 4, 1988, as required by section 1104(c)(2)(C) of the LIFE Act.

On appeal, counsel asserts that the director erred in her denial of the applicant's LIFE Act application and wrongly stated that the applicant's affidavits were insufficient to substantiate his claim.

An applicant for permanent resident status must establish entry into the United States before January 1, 1982 and continuous residence in the United States in an unlawful status since such date and through May 4, 1988. Section 1104(c)(2)(B) of the LIFE Act; 8 C.F.R. § 245a.11(b). The applicant must also establish continuous presence in the United States from November 6, 1986, through May 4, 1988. Section 1104(c)(2)(C) of the LIFE Act; 8 C.F.R. § 245a.11(c).

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 petitioner 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 or petition.

Although Citizenship and Immigration Services (CIS) 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. 8 C.F.R. § 245a.2(d)(3)(vi)(L).

On a form to determine class membership, which he signed under penalty of perjury, the applicant stated that he first entered the United States in March 1981, when he crossed the border without inspection. The applicant reaffirmed this date on his Form I-687, Application for Status as a Temporary Resident, which

he signed under penalty of perjury on April 19, 1990. The applicant also stated on his Form I-687 application that he lived at [REDACTED] in Rosemead, California from 1981 to April 1983, and at [REDACTED] in Rosemead from April 1983 to the date he signed his Form I-687 application. The applicant stated the he worked as a gardener at different locations from April 1981 to August 1985, and as a laborer at De La Peza Construction in Pasadena from August 1985 to the date of his Form I-687 application.

In an attempt to establish continuous unlawful residence since before January 1, 1982 through May 4, 1988, the applicant submitted the following evidence:

1. A February 6, 2006, letter from [REDACTED], in which he stated that the applicant and his wife lived with him at [REDACTED] in Alhambra, California from February 1981 until 1985. This information is inconsistent with that provided by the applicant on his Form I-687 application, in which he stated that he lived at [REDACTED] in Rosemead from 1981 to 1985. In addition, [REDACTED] alleged that he lived with the applicant and his wife in California in February 1981, a month before the applicant stated that he first arrived in the United States in March 1981.
2. A February 6, 2006, letter from [REDACTED], in which he verified that he met the applicant in 1981. [REDACTED] did not state the circumstances surrounding his initial acquaintance with the applicant or how he dated his relationship with him.
3. A February 6, 2006, letter from [REDACTED] in which he confirmed that he met the applicant in 1981, and that the applicant had worked for him. [REDACTED] did not state the circumstances surrounding his initial acquaintance with the applicant or how he dated his relationship with him. [REDACTED] also did not state the work that the applicant performed for him or when the working relationship began.
4. A February 8, 2006, letter from [REDACTED] in which she stated that the applicant was her gardener from 1981 through 1985 at [REDACTED] in Rosemead. Ms. [REDACTED] did not indicate the records that she relied upon in providing the applicant's dates of employment with her. The applicant submitted no documentation to corroborate his employment with [REDACTED] or any other employer during the qualifying period.

The applicant did not respond to the director's Notice of Intent to Deny dated July 6, 2006. On appeal, the applicant submits the following additional documentation:

5. A September 30, 2006, affidavit from [REDACTED] in which she states that she first met the applicant in 1981, when he worked as a gardener, responsible for cutting the grass at the apartment units at which she resided.
6. A September 28, 2006, affidavit from [REDACTED], in which he states that he has known the applicant since 1981, and that he met the applicant at work. The affiant did not state the name of an employer, a location, or the nature of the work that he and the applicant were engaged in when they met.
7. A September 29, 2006, affidavit from [REDACTED], in which he states that he met the applicant in 1979, when the applicant did some work in the home in which the affiant was living.

The affiant's statement is inconsistent with his February 6, 2006, statement in which he states that he first met the applicant in 1981. Further, he now alleges that he first met the applicant prior to the applicant's stated arrival in the United States in March 1981.

8. A September 29, 2006, affidavit from [REDACTED] in which she states that she has known the applicant since 1980, and that she met him through her parents. The affiant did not state how she dated her relationship with the applicant. Further, she alleges that she met the applicant in 1980; however, the applicant stated that he did not arrive in the United States until 1981.

The applicant has submitted conflicting statements regarding his residency in the United States. The applicant stated that he lived in Rosemead, California throughout the qualifying period. However, he submitted a statement from [REDACTED], who stated that the applicant lived with him in Alhambra, California from 1981 to 1985. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the applicant submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). The applicant submitted no contemporaneous evidence or other competent objective evidence that would explain the inconsistencies in his evidence. Additionally, several affiants stated that they met the applicant prior to 1981, the year he stated that he first arrived in the United States. None of them stated that their relationship with the applicant began in the United States or that the applicant resided continuously in the United States throughout the requisite period.

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.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.