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U.S. Citizenship  
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[REDACTED]

FILE:

[REDACTED]

Office: LOS ANGELES

Date:

SEP 02 2008

- consolidated herein]

MSC 03 247 62842

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. 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, Los Angeles, California, and is now before the Administrative Appeals Office 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 from then through May 4, 1988.

It is noted that a Form G-28, Notice of Entry of Appearance of Attorney or Representative, has been filed on the applicant's behalf by [REDACTED] identified as a representative of Legal and Professional Offices of [REDACTED] Irvine, California. However, [REDACTED] has failed to submit documentation to establish that he/she is qualified to represent the applicant under the provisions of 8 C.F.R. § 292.1. Therefore, the applicant is considered to be self-represented in this matter.

On appeal, the applicant submits a brief statement. The applicant indicates that he needs an unspecified period of time in which to submit a brief and/or evidence to the AAO in support of the appeal. The appeal was filed on January 11, 2007. To date, more than one year and seven months later, no additional documentation has been received; therefore, the record is considered complete.

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 states 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 petitioner 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 the regulation at 8 C.F.R. § 245a.2(d)(3) provides an illustrative list of contemporaneous documents that an applicant may submit in support of his or her claim of continuous residence in the United States in an unlawful status since prior to January 1, 1982, the submission of any other relevant document is permitted pursuant to 8 C.F.R. § 245a.2(d)(3)(vi)(L). *See* 8 C.F.R. 245a.15(b). To meet his or her burden of proof, an applicant must provide evidence of eligibility apart from the applicant's own testimony. 8 C.F.R. § 245a.13(f). Affidavits indicating specific, personal knowledge of the applicant's whereabouts during the relevant time period are given greater weight than fill-in-the-blank affidavits providing generic information.

The issue in the proceeding is whether the applicant has submitted sufficient documentation to establish, by a preponderance of the evidence, that he entered the United States before January 1, 1982, and resided in a continuous unlawful status from then through May 4, 1988.

The record reflects that on July 2, 1991, the applicant signed a Form I-687, Application for Status as a Temporary Resident (Under Section 245A of the Immigration and Nationality Act), stating that he had worked in the United States in the construction industry in various places since February 1981. He also stated that he had lived in Santa Ana, California, at the following addresses: [REDACTED] from 1981 to 1984; [REDACTED] from 1984 to 1985; and, [REDACTED] from 1985 to 1991. He further indicated that he had only departed the United States to Mexico on one occasion – from December 23, 1987, to January 15, 1988 – in order to visit his father who was sick. In support of the Form I-687, the applicant submitted handwritten receipts dated in or after 1984; photocopies of envelopes with illegible postage dates; an Internal Revenue Service (IRS) Form W-2, Wage and Tax Statement for 1988; and several fill-in-the-blank affidavits from acquaintances that did not contain specific information regarding their knowledge of the applicant's entry into the United States prior to January 1, 1982.

On a Department of Labor Form MA 7-50 B and C, Application for Alien Employment Certification, signed by the applicant on May 1, 2002, the applicant stated that he had been employed in construction by Carpinteria El Cedro, in Morelos, Mexico, from March 1976 to February 1988.

On a Form G-325, Biographic Information Sheet, signed by the applicant on June 2, 2003, the applicant indicated his addresses in California as follows: [REDACTED] Santa Ana, from 1981 to 1982; [REDACTED], Santa Ana, from 1982 to 1986; [REDACTED], San Clemente, from 1986 to 1990.

The applicant filed the current Form I-485, Application to Register Permanent Resident or Adjust Status, under the LIFE Act on June 4, 2003. In support of the application, the applicant submitted the following:

- A fill-in-the-blank affidavit from [REDACTED] notarized on September 26, 2006, stating that he met the applicant at an Alcoholics Anonymous meeting on an unspecified date, and that he has personal knowledge that the applicant has resided at an unspecified address in Santa Ana, California, since July 1983.
- A fill-in-the-blank affidavit from [REDACTED], notarized on October 11, 2006, stating that he met the applicant through an un-named mutual friend in 1981, and that he has personal knowledge that the applicant has resided at an unspecified address in Santa Ana, California, since July 1981.
- A fill-in-the-blank affidavit from [REDACTED] notarized on October 12, 2006, stating that he used to work with the applicant at an unspecified place of employment, and that he has personal knowledge that the applicant has resided at an unspecified address in Santa Ana, California, since 1981.

The affiants are generally vague as to how they date their acquaintances with the applicant, how often and under what circumstances they had contact with the applicant during the requisite period, and lack details that would lend credibility to their claims of alleged 24 year relationships with the applicant. It is unclear as to what basis the affiants claim to have direct and personal knowledge of the events and circumstances of the applicant's residence in the United States. As such, the statements provided can be afforded minimal weight as evidence of the applicant's residence and presence in the United States for the requisite period.

In a Notice of Intent to Deny (NOID), dated September 28, 2006, the district director determined that the applicant had failed to submit sufficient evidence demonstrating his continuous unlawful residence in the United States from prior to January 1, 1982, through May 4, 1988. In a Notice of Decision (NOD), dated October 30, 2006, the district director denied the application based on the reasons stated in the NOID.

On appeal, the applicant states that "...apparently the information contained in a Form I-140 [Immigrant Petition for Alien Worker] that I had previously filed was misinterpreted since I worked in Mexico for a company ([REDACTED]) during periods with intervals of time from March 1976, until the last time that I worked for them which was on [sic] February 1987..."

There are numerous discrepancies contained in the information provided by the applicant in the Forms I-687, MA 7-50 A and B, G-325, and I-485, regarding his addresses in the United States and employment during the requisite time period. 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). 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. *Id.*

The regulation at 8 C.F.R. § 245a.12(e) provides that "[a]n alien applying for adjustment of status under [section 1104 of the LIFE Act] has the burden of proving by a preponderance of the evidence that he or she has resided in the United States for the requisite periods." Preponderance of the evidence is defined as "evidence which as a whole shows that the fact sought to be proved is more probable than not." Black's Law Dictionary 1064 (5<sup>th</sup> ed. 1979). See *Matter of Lemhammad*, 20 I&N Dec. 316, 320, Note 5 (BIA 1991).

The absence of verifiable documentation to support the applicant's claim of continuous residence during the relevant period 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. Given the lack of credible supporting documentation and the inconsistencies noted in the record, it is concluded that the applicant has failed to establish by a preponderance of the evidence that he entered the United States before January 1, 1982, and maintained continuous unlawful residence since such date through May 4, 1988, as required for eligibility for adjustment of status to permanent resident status under section 1104(c)(2)(B)(i) of the LIFE Act and 8 C.F.R. § 245a.11(b). Thus, he is ineligible for permanent resident status under section 1104 of the LIFE Act.

It is noted that the record reflects that the applicant was expeditiously removed from the United States at the Otay Mesa, California, Port of Entry after having been apprehended presenting a Form I-551 (Permanent Resident Card) belonging to another person.

**ORDER:** The appeal is dismissed. This decision constitutes a final notice of ineligibility.