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U.S. Citizenship
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Services

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FILE:

MSC 02 193 61734

Office: ATLANTA

Date: SEP 24 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:

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.

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

The district director denied the application because the applicant had not demonstrated that he had continuously resided in the United States in an unlawful status since before January 1, 1982 through May 4, 1988.

On appeal the applicant asks that CIS reconsider his application.

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. 8 C.F.R. § 245a.11(b).

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).

An applicant must establish eligibility by a preponderance of the evidence. 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 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.

Citizenship and Immigration Services (CIS) regulations provide an illustrative list of contemporaneous documents that an applicant may submit to establish presence during the required period. 8 C.F.R. § 245a.15(b)(1); *see also* 8 C.F.R. § 245a.2(d)(3)(vi)(L). Such evidence may include employment records, tax records, utility bills, school records, hospital or medical records, or attestations by churches, unions, or other organizations so long as certain information is included. The regulations also permit the submission of affidavits and any other relevant document, but applications submitted with unverifiable documentation may be denied.

Documentation that does not cover the required period is not relevant to a determination of the alien's presence during the required period and will not be considered or accorded any evidentiary weight in these proceedings.

On March 31, 2006, the director sent the applicant a Notice of Intent to Deny (NOID), which stated that the evidence submitted by the applicant was insufficiently probative of continuous unlawful residence in the U.S. from prior to January 1, 1982 through May 4, 1988, and continuous physical presence in the U.S. from November 6, 1986 through May 4, 1988.

In response the applicant provided three additional affidavits.

On August 21, 2006, the director denied the application because the applicant had failed to establish his continuous unlawful presence during the required period.

On appeal the applicant asks that CIS reconsider his application.

Relevant to the period in question the record contains the following evidence:

- (1) Document, signed by [REDACTED] asserting the applicant has worked for him on and off since 1984.
- (2) Document, signed by [REDACTED] asserting generically that he has known the applicant for 20 years (since 1986).
- (3) Affidavit, signed by [REDACTED] asserting generically that he has known the applicant to live in the United States since March, 1981.
- (4) Document, signed by the applicant's brother-in-law, asserting he has known the applicant to be living in the United States since 1980.
- (5) Document, signed by the applicant's daughter-in-law, asserting she has known the applicant to be living in the United States since 1980.
- (6) Document, signed by the applicant's brother-in-law, asserting he has known the applicant to live in the United States since 1980.
- (7) Document, signed by the applicant's brother, asserting he has known the applicant to live in the United States since 1980.
- (8) Document, signed by the applicant's brother, asserting he has known the applicant to live in the United States since 1980.
- (9) Document, signed by the applicant's son, asserting he has known the applicant to live in the United States since 1980.

As stated above, the inference to be drawn from the documentation provided shall depend on the *extent* of the documentation. The minimal evidence furnished cannot be considered extensive, and in such cases a negative inference regarding the claim may be made as stated in 8 C.F.R. § 245a.12(e).

The applicant's entire body of evidence consists of letters. Six of the letters provided by the applicant are from family members, and cannot be considered objective evidence. Further, these letters are generic in nature, asserting simply they have known the applicant to live in the United

States since 1980, and all bear the same, templated format. These letters are so lacking in factual information that they are not significantly probative of the applicant's assertions.

The same can be said for the entire record. When viewed in its totality, the lack of information, such as the actual date and manner of the applicant's entry, his working history, and details about his continuous unlawful presence, undermines his assertions of eligibility. The documentation submitted is not sufficiently probative to make an informed determination that the applicant probably entered prior to January 1, 1982, and remained continuously, unlawfully present during the required period. There are no medical records, no utility bills, no rental receipts, pay stubs, tax documents, or any corroborating, contemporaneous documentation.

The general evasiveness of the applicant's answers, such as failing to provide the birthdates of his children born in Mexico, his manner and actual date of entry, and his activities during his claimed 20 years of unlawful presence, lead the AAO to conclude that the evidence of his eligibility is not credible.

An alien applying for LIFE Act legalization has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of section 245a of the Act. The applicant has failed to meet this burden.

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