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U.S. Department of Homeland Security
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U.S. Citizenship and Immigration Services

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PUBLIC COPY

[redacted]

FILE: [redacted] Office: LOS ANGELES Date: JUN 02 2006
MSC 02 214 60027

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. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

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 (AAO) 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 from before January 1, 1982 through May 4, 1988.

On appeal, the applicant asserts that he has submitted sufficient documentation establishing continuous residence in the United States from prior to January 1, 1982 through May 4, 1988. The applicant submits a statement from [redacted] of Van Nuys, California, who indicated that she has known the applicant since October 1981, and attested to his character. The applicant also provides copies of previously submitted documents.

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).

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).

Here, the submitted evidence is not relevant, probative, and credible In an attempt to establish continuous unlawful residence since before January 1, 1982 through May 4, 1988, the applicant provided the following evidence throughout the application process:

- An affidavit notarized April 20, 1990 from [redacted] Van Nuys, California, who indicated that he met the applicant through mutual friends and attested to the applicant's residence in Van Nuys, California since February 1982.

- Affidavits notarized in 2002 from [redacted] of North Hills, California, who indicated they have known the applicant since December 1981. The affiants attested to the applicant's character.

- An affidavit notarized December 21, 2002 from [redacted] of Arleta, California, who indicated that she has known the applicant since December 1981. [redacted] asserted that the applicant did "some work at my residence."

- An affidavit notarized March 16, 2002 from [redacted] who indicated that she has known the applicant since November 15, 1981. [redacted] indicated that the applicant was employed by her family as a handyman.

- An affidavit notarized March 1, 2002 from [redacted] of North Hills, California, who indicated that she has known the applicant since October 18, 1981. [redacted] attested to the applicant's character.

- An affidavit notarized February 8, 2002 from [redacted] of Los Angeles, California, who indicated that he has known the applicant since March 1981. [redacted] that the applicant had worked for him and friends doing cleanup and maintenance work.

- An affidavit notarized March 25, 2002 from [redacted] director of Langdon Parents Center, who indicated that she has known the applicant since February 1981 [redacted] asserted that the applicant was a volunteer at Langdon Elementary from 1981 to 1985.

- An affidavit notarized April 14, 2002 from [redacted] owner of San Fernando Income Tax Service in North Hills, California. [redacted] asserted that the applicant "has been a faithful client since 1981. He has done his taxes here and used many other of our services."

At the time of his LIFE interview on May 20, 2004, the applicant, through an interpreter, stated in a sworn statement the following:

> My first job or work in the US was painting and landscape. I was painting and repairing furniture in Mexico. I started painting and landscaping in the US in 1981. I did this for about 1 year. I entered the US thru Tijuana without inspection in February 1981. After entry, I went to Van Nuys. I arrived at my cousin's house and stayed there for about seven years. The owner of this house [redacted] who is my cousin. During these years I stood out on corner streets to look for a job. I never filed for taxes since 1981 until 1989 when I started to file because I was already paid with check.

The director issued a Notice of Intent to Deny dated May 21, 2004, informing the applicant that there were inconsistencies between his oral testimony, sworn statement and the documentation provided with his application. Specifically, at item 5 on his Form G-639, the applicant indicated that he entered the United States through a port of entry in Texas, but did not list the entry date. However, at the time of his interview,

the applicant indicated that he first entered the United States through the Tijuana port of entry. In addition, [redacted] in his affidavit, indicated that the applicant had been a faithful client since 1981; however, the applicant indicated that he did not file taxes until 1989. The applicant was also informed that the affidavits submitted did not set forth specific basis of the knowledge for the testimony provided.

The applicant, in response, asserted that the information indicated on his Form G-639 was incorrect. The applicant stated at the time he signed the form he was nervous and did not understand or read the English language. The applicant asserted, "I signed the application thinking that it stated what I had told the officer that is that I had entered the U.S. through Tijuana." Regarding [redacted] affidavit, the applicant asserted that he has known him since 1981 and "I would go to him for help with letters, forms etc. That is why he states that I have been his client since this date." The applicant submitted photocopies of documents previously provided along with a letter dated June 6, 2004 from [redacted] of North Hills, California. [redacted] indicated that he had periodically employed the applicant from mid 1981 to approximately November 1989, doing odd jobs as a day laborer.

The AAO does not view the affidavits discussed above as substantive enough to support a finding that the applicant entered and began residing in the United States before January 1, 1982 through May 4, 1988. The affidavit from [redacted] has little probative value as the year (1981) the applicant started volunteering appears to have been altered. Except [redacted] the remaining affiants all claimed to have known the applicant since 1981, but provided no address for the applicant. Likewise, none of the affiants provide any detail regarding the basis for their continuing awareness of the applicant's residence. Further, the applicant claimed that he resided in Van Nuys with his cousin, [redacted] for seven years, but no documentation [redacted] was provided to corroborate his statement. As conflicting statements have been provided, it is reasonable to expect an explanation from [redacted] addressing this matter; however, the applicant provided no additional statement from [redacted] It is unclear why the applicant would present a copy [redacted] driver license that was issued in 2004, but no statement from the affiant in order to resolve the discrepancy. In addition, the applicant has presented a contradicting statement of which no explanation has been provided, namely [redacted] indicated that the applicant was in his employ from mid 1981 to November 1989. The applicant, however, did not claim any employment with this affiant on his Form I-687 application.

Doubt cast on any aspect of an applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence. It is incumbent upon an applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I& N Dec. 582 (BIA 1988).

Given the contradicting information, absence of a plausible explanation, along with the virtual absence of contemporaneous documentation, and the applicant's reliance on affidavits, which do not meet basic standards of probative value it is concluded that the applicant has failed to establish continuous residence in the United States from prior to January 1, 1982 to February 2, 1983. Therefore, the applicant 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.