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**U.S. Citizenship
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Services**

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FILE: [REDACTED]
MSC 02 096 60593

Office: LOS ANGELES

Date: **JUN 12 2006**

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, reopen, and denied again by said Director. The matter 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 since before January 1, 1982 through May 4, 1988. The director also denied the application because the applicant had failed to establish that he satisfied the "basic citizenship skills" required under section 1104(c)(2)(E) of the LIFE Act

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.

Under section 1104(c)(2)(E)(i)(II) of the LIFE Act, the applicant can meet the basic citizenship skills requirement by showing pursuant to 8 C.F.R. § 245a.17(a), that he:

- (2) has a high school diploma or general educational development diploma (GED) from a school in the United States; or
- (3) has attended, or is attending, a state recognized, accredited learning institution in the United States, and that institution certifies such attendance. The course of study at such learning institution must be for a period of one academic year (or the equivalent thereof according to the standards of the learning institution) and the curriculum must include at least 40 hours of instruction in English and United States history and government. The applicant may submit certification on letterhead stationery from a state recognized, accredited learning institution either at the time of filing the Form I-485, subsequent to filing the application but prior to the interview, or at the time of the interview.

The record reflects that at the time of his interview on May 20, 2003, the applicant did not pass the United States history and government test. On May 20, 2003, the director issued a Form I-72 requesting that the applicant submit: 1) proof of his continuous presence in the United States from 1981 to 1988; 2) a printout from the Social Security Administration reflecting his earnings; and 3) proof of enrollment in or completion of attendance at a state recognized, accredited learning institution in the United States for one academic year or the equivalent thereof and which indicates at least 40 hours of instruction in English and United States history and government. The documentation must be on school letterhead stationery.

Subsequent to the issuance of the initial Notice of Decision, the director issued a notice dated April 12, 2004 informing the applicant that Citizenship and Immigration Services would re-open and reconsider his case "if the items requested on the original I-72 were submitted by May 12, 2004."

The applicant has met the requirement of 8 C.F.R. § 245a.17(a)(3) as on November 26, 2003, the district office received a letter dated August 27, 2003 along with a printout of the applicant's attendance from an administrator at the Harbor Community Adult School in San Pedro, California. The administrator indicated that one academic year of instruction is equivalent to 400 hours, and that the applicant had completed 115.5 hours of instruction in English as a Second Language and 83 hours of instruction in government/history.

Therefore, the applicant has satisfied the alternative of the "basic citizenship skills" requirement set forth in section 1104(c)(2)(E)(i) of the LIFE Act.

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:

- Three Western Union money order receipts dated during 1986 and one on March 30, 1988.
- A California identification card issued on April 28, 1983.
- A letter dated December 22, 1990 from [REDACTED] owner of [REDACTED] [REDACTED] Wilmington, California, who indicated that the applicant was in his employ from 1981 through 1983. [REDACTED] asserted that the applicant received his wages in cash with no responsibility on his part concerning social security or taxes.
- A letter dated January 21, 1991 from [REDACTED] owner of [REDACTED] Wilmington, California, who indicated that the applicant has been in his employ since January 1984.

- An airline passenger ticket dated July 3, 1987 issued in the applicant's name.
- A receipt from Yamada Company in Gardena, California dated May 13, 1983.

The applicant also submitted an undated letter from [REDACTED] an assistant to the pastor at St. Patrick Church in Los Angeles, California, who indicated that the applicant was a member of its parish from April 1981 to December 1984. This letter, however, has little evidentiary weight or probative value, as it does not conform to the basic requirements specified in 8 C.F.R. § 245a.2(3)(v). Most importantly, [REDACTED] not explain the origin of the information to which he attests and the letter failed to include the organization's seal.

On his Form I-687, Application for Status as a Temporary Resident, the applicant stated that he had lived in Los Angeles from 1981 to 1984 and in Wilmington, California from 1984 to 1991. The applicant submitted copies of postmarked envelopes for correspondence he sent to Mexico. Three envelopes list a Wilmington return address for the applicant and are dated September 1983, October 1983 and November 1983. These three envelopes conflict with the information the applicant provided on his Form I-687: that he lived in Los Angeles from 1981 to 1984. Four envelopes list a Los Angeles return address for the applicant and are postmarked September 1987, November 1987, January 1988 and April 1988 and conflict with the applicant's information on his Form I-687 that he lived in Wilmington from 1984 to 1991.

Not only is the applicant's testimony and evidence internally inconsistent, it is also inconsistent with affidavits written by friends.

In an affidavit dated January 28, 1991, [REDACTED] of Wilmington, California stated that according to his personal knowledge, the applicant resided in Wilmington from 1981 to the present (1991). [REDACTED] affidavit conflicts with the information provided by the applicant on his Form I-687, that he lived in Los Angeles from 1981 to 1984 and subsequently in Wilmington.

In an affidavit dated 2003, [REDACTED] Compton, California stated that the applicant resided in Compton from 1981 to the present (2003). [REDACTED] statement is inconsistent with the applicant's statement on his Form I-687. The applicant did not indicate that he had ever lived in Compton.

In an affidavit dated May 2003, [REDACTED] of Compton, California stated that the applicant resided in Paramount California from 1981 to 1982. [REDACTED] affidavit is inconsistent with the applicant's statement that he resided in Los Angeles from 1981 to 1984.

Julia Sallady of Paramount, California indicated in her affidavit that according to her personal knowledge, the applicant resided in Los Angeles from "March 1981 to 1981" and from 1987 to 1988, and in Wilmington from 1981 to 1986. [REDACTED] testimony is inconsistent with the applicant's testimony that he resided in Los Angeles from 1981 to 1984 and in Wilmington from 1984 to 1991.

In a Notice of Intent to Deny dated May 26, 2004, the director pointed out several discrepancies to the applicant. In response, the applicant said that his friends had not visited him at his residence, but rather he visited his friends at their homes. This is not persuasive because each affiant indicated that they were speaking from their own personal knowledge of the applicant's residences.

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 credibility issues arising from the documentation provided by the applicant, it is determined that the applicant has not met his burden of proof. The applicant has not established, by a preponderance of the evidence, that he entered the United States before January 1, 1982 and resided in this country in an unlawful status continuously from before January 1, 1982 through May 4, 1988, as required under 1104(c)(2)(B)(i) of the LIFE Act and 8 C.F.R. § 245a.11(b). Given this, the applicant is ineligible for permanent resident status under section 1104 of the LIFE Act.

Finally, the record reflects that on January 3, 1998, the applicant was arrested by the Los Angeles Police Department and subsequently charged with disorderly conduct – solicit lewd act on January 13, 1998. On January 28, 1998, the applicant was convicted of this misdemeanor offense in the Los Angeles County Municipal Court. Case no. 8SP00121. This single misdemeanor conviction does not render the applicant ineligible pursuant to 8 C.F.R. § 245a.11(d)(1) and 8 C.F.R. § 245a.18(a).

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