

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

L 2

PUBLIC COPY

[REDACTED]

FILE:

[REDACTED]

Office: DALLAS

Date: JUN 12 2006

MSC 02 226 61462

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, Dallas, Texas, 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 submits an additional affidavit to support his claim of residency during the required period.

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 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 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).

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:

1. An April 12, 1990 sworn affidavit [REDACTED] who stated that he met the applicant in 1981 at a friend's party and that they have met and talked on a regular basis since that time. The applicant

submitted no evidence to establish that [REDACTED] resided in the United States during the relevant time frame.

2. An undated notarized statement from [REDACTED] in which he confirmed that he has known the applicant since 1981, and that the applicant has help him around the house on a "number of occasions." The applicant submitted no evidence that [REDACTED] resided in the United States during the relevant time frame. Further, the address at which [REDACTED] stated the applicant resided does not correspond to any residential address claimed by the applicant during the qualifying 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).
3. A January 29, 2002 notarized statement from [REDACTED] who stated that he is a citizen of the United States, and that he has known the applicant since 1981. On appeal, the applicant submitted an additional declaration that is allegedly by [REDACTED]. However, the declaration is not signed or dated. Additionally, [REDACTED] name is misspelled on the document, it is highly unlikely that he completed the form and there is no evidence that he approved the information entered on the document. Furthermore, the document indicates that he first met the applicant in 1982, and that he met the applicant during a Pakistani Day celebration. We note that the applicant claimed to have lived in New York during that time and the putative declarant, [REDACTED] resided in Texas. 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 visa application. *Id.*

As discussed above, analysis of the applicant's claim of residency is based on both the quality and quantity of the evidence submitted. In the instant case, the applicant has submitted four statements of residency, two of which contain conflicting information that the applicant has not resolved through competent evidence. The applicant submitted no contemporaneous documentation to support his claim of residency.

Given the absence of any contemporaneous documentation, the applicant's reliance on minimum documentation, and the contradictory information contained in the supporting documentation, it is concluded that he has failed to establish continuous residence in the U.S. for the required period.

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