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

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[redacted]

FILE: [redacted] Office: LOS ANGELES Date: JAN 09 2007

MSC 02 242 61508

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. If your appeal was sustained, of 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.

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

The 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. The director observed that the only documentation submitted by the applicant to prove residency were employment verification letters, and determined that these letters were not amendable to verification because they lacked all the elements required for employment verification letters by 8 C.F.R. § 245a.15(b)(1) and 8 C.F.R. § 245a.2(d)(3).

On appeal, the applicant indicates that he is submitting evidence to prove his presence in the United States, and submits copies of documents already in the record.

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).

As noted by the director, the regulation at 8 C.F.R. § 245a.2(d)(3)(i) provides that letters from employers must be on employer letterhead stationery, if the employer has such stationery, and must include the following:

(A) Alien's address at the time of employment;
(B) Exact period of employment;
(C) Periods of layoff;
(D) Duties with the company;
(E) Whether or not the information was taken from official company records; and
(F) Where records are located and whether the Service may have access to the records.

The regulation further allows that if official company records are unavailable, an affidavit form-letter stating that the alien's employment records are unavailable and explaining why such records are unavailable may be submitted in lieu of meeting the requirements at (E) and (F) above.

Nevertheless, as also indicated above, an employment verification letter not meeting all the foregoing requirements may still merit consideration as "any other relevant document" pursuant to 8 C.F.R. § 245a.2(d)(3)(vi)(L).

The evidence submitted by the applicant is not of sufficient probative value to meet the applicant's burden of proof in demonstrating continuous residence in an unlawful status in the United States from before January 1, 1982 through May 4, 1988. The applicant submitted six letters from employers. Each letter indicates that the applicant was employed for the period of, or some portion of the period of, January 1, 1981 through May 4, 1988. The director correctly observed that none of these letters meet all the requirements listed in 8 C.F.R. § 245a.2(d)(3)(i). In particular, none of the letters include the alien's address at the time of employment or indicate if the information was taken from company records, where the records are located and whether the Service can have access to the records.

Although the employment letters submitted by the applicant merit consideration as other relevant documents, they are not of sufficient probative value to meet the applicant's burden of proof. Only the letter from [redacted] of Walnut Properties indicates consistent employment of the applicant during the term of employment specified. The other letters state that the applicant was employed as a freelance "entertainer" or "artist", but use terms such as "from time to time" to characterize the applicant's actual employment during the term of employment. Consequently, these letters are of minimal probative value in proving that the applicant resided *continuously* in the United States from before January 1, 1981 through May 4, 1988.

The director gave the applicant notice that the employment letters he submitted were inadequate. The applicant failed to address the deficiencies in the evidence, to provide an explanation for why these

deficiencies could not be addressed, or present additional evidence from his employers. The other evidence of residency submitted by the applicant consists of an airline ticket and boarding pass indicating that he entered the United States in 1987. Viewed in its totality, the evidence is insufficient to demonstrate that the applicant resided continuously in the United States in an unlawful status from before January 1, 1981 through May 4, 1988.

The applicant has not met his burden of proving continuous residence in an unlawful status in the United States from before January 1, 1982 through May 4, 1988. Accordingly, the applicant has not established eligibility to adjust status to Legal Permanent Resident status under section 1104 of the LIFE Act.

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