U.S. Department of Homeland Security
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Washington, DC 20529

U.S. Citizenship and Immigration Services

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

[redacted]

PUBLIC COPY

FILE: [redacted] Office: LOS ANGELES Date: MAR 26 2007

MSC 02 194 60985

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:

[redacted]

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 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 since before January 1, 1982 through May 4, 1988.

On appeal, counsel asserts that, as the applicant "has made a sincere effort to provide all the relevant document he could gather . . . it should be judged as sufficient since all the evidence provided are [sic] credible and has probative value." Counsel submits a brief and additional documentation in support of the appeal.

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. Section 1104(c)(2)(B) of the LIFE Act; 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 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 a statement to determine class membership, the applicant stated that he first entered the United States on June 1, 1980. On his Form I-687, Application for Status as a Temporary Resident, which he signed under penalty of perjury on March 30, 1990, the applicant stated that he worked at Unocal from June 1980 to February 1989, and that he lived at the following locations:

June 1980 to October 1980
October 1980 to June 1985
June 1985 until the date of the Form I687 [redacted]

In an attempt to establish continuous unlawful residence since before January 1, 1982 through May 4, 1988, the applicant submitted the following evidence:

1. A March 9, 1990 affidavit from [redacted], in which he stated that he and the applicant "became close and remained members of the same mausque [sic] since 1980.

2. A copy of an airline ticket stub from Mexicana Airlines dated February 1, 1988. The stub shows the applicant's name in a different type from that of the ticket itself.

3. Copies of three pay stubs from Unocal '76 for periods in September and October 1981. The applicant failed to submit the originals of these pay stubs when requested to do so by the district office. The applicant submitted no further documentation of his employment with Unocal. In a January 22, 2004 sworn statement given during his LIFE Act adjustment interview, the applicant stated that he worked at Unocal "between jobs." However, he did not admit to any other employment during the qualifying period on his Form I-687 application and submitted no evidence of any other employment for the requisite period.

4. An April 19, 2004 sworn statement from [redacted] in which he certified that in 1985, the applicant made a deposit towards rent, but left because he could not find a job. [redacted] stated that he was living at [redacted] in Arlington, Virginia at the time. The applicant submitted no documentation to verify [redacted] presence and residence in Virginia during the period stated nor did [redacted] state how he dated the applicant's presence in Virginia in 1985.

On appeal, counsel asserts that the affidavit of [redacted] "is detailed [and] contains specific personal knowledge of the applicant's whereabouts during the period in question." We note, however, that [redacted] statement, while detailing the applicant's residences during the requisite period, does not give the basis of his knowledge of the applicant's residences. Additionally, the applicant and counsel state that [redacted] could not be located for additional and updated information, and therefore provided the district office with no information or opportunity to verify his statement.

We concur with counsel that pursuant to *Matter of E-M-*, the quality of the applicant's evidence is more important than its quantity. However, upon examination of the applicant's submitted evidence, we do not find that it is sufficiently probative and credible to establish by a preponderance of the evidence that the applicant resided continuously in the United States for the required period. Accordingly, it is concluded that the applicant 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.