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U.S. Citizenship  
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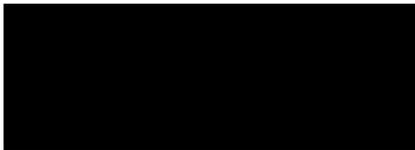
Applicant:



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:



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. Wieman, 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 (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, counsel asserts the applicant has submitted sufficient credible documentation establishing continuous residence in the United States from prior to January 1, 1982 through May 4, 1988.

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).

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

- An earnings statement for the period ending June 15, 1986 from The [REDACTED] in Dallas, Texas.

- An undated letter from [REDACTED] of Jack In The Box in Arlington, Texas, who indicated the applicant has been employed since October 1987.
- An undated letter from [REDACTED] general manager of On the Border in Houston, Texas, who attested to the applicant's employment at the restaurant from October 1985 to July 1987.
- Several earnings statements from June 1986 to June 1987 from On the Border-Arlington, Ltd.
- Earnings statements for the periods ending October 5, 1986, November 16, 1986, December 28, 1986, February 1, 1987 and March 22, 1987, from Café Investments, Inc., in Arlington, Texas.
- A notarized affidavit from [REDACTED] of Cantillo, Texas, who indicated the applicant residing with him from June 1981 to August 1985 at [REDACTED] Cantillo, Texas. The affiant indicated that the applicant "worked for me doing labor work around my house during this time."

In response to a Form I-72 issued on October 2, 2003, the applicant provided the following evidence:

- A letter dated December 25, 2003 from [REDACTED] of Fountain of Life Church in Arlington, Texas who indicated the applicant has attended the church from January 1981 to November 1988.
- A letter dated November 12, 2003 from [REDACTED] Imperial, administrative assistant at Jack In The Box in Irving, Texas, who indicated that the applicant has been employed by the company since July 15, 1996.

The director issued a Notice of Intent to Deny dated February 24, 2005, which advised the applicant that in an attempt to verify the authenticity of letter from Fountain of Life Church, Citizenship and Immigration Services telephoned and spoke to [REDACTED]. The director noted that the affiant was very vague regarding the dates the applicant attended the church and could not provide any evidence of the applicant's attendance. The applicant was further advised that he had not submitted verifiable or credible evidence to establish his presence in the United States since before January 1, 1982 to 1986. The applicant was provided 30 days in which to submit a response; however, no response was submitted prior to the issuance of the director's Notice of Decision dated August 6, 2005.

On appeal, counsel asserts that the letter from the church establishes by a preponderance of the evidence that the applicant was residing illegally in the United States from 1981 through May 4, 1986. Counsel contends, "[m]emories fade with the lapse of time and it is unduly burdensome at this point in time to ask someone to remember the exact date of an event that occurred 24 years ago."

The statements of counsel on appeal regarding the amount and sufficiency of the applicant's evidence of residence have been considered. However, the evidence submitted does not establish with reasonable probability that the applicant was already in the country before January 1, 1982 and that he was residing in continuously unlawful status through May 4, 1988. Specifically:

1. The letter from [REDACTED] has little evidentiary weight or probative value as it does not conform to the basic requirements specified in 8 C.F.R. § 245a.2(d)(3)(v). Most importantly, the pastor does not explain the origin of the information to which he attests. Furthermore, the applicant indicated on his Form I-687 application that he was *not* affiliated with any religious organization during the requisite period.

2. [REDACTED] of Jack In The Box attested to the applicant's employment since October 1987. However, in a subsequently letter, [REDACTED] Imperial, of Jack in the Box indicated that the applicant's employment did not commence until July 15, 1996. As conflicting statements have been provided, it is reasonable to expect an explanation from the affiants in order to resolve the contradictions. However, no statement from either affiant has been submitted to resolve the contradicting letters. As such, the letters have little probative value or evidentiary weight.
3. The applicant claimed on his Form I-687 application to have resided in Arlington, Texas since September 1985; however, no evidence such as a lease agreement, rent receipts, utility bills or affidavits from affiants were submitted to corroborate his residence during the requisite period.

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.

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