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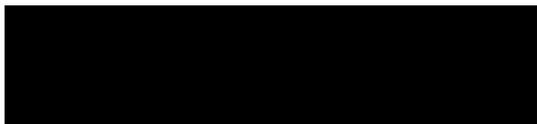
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



**U.S. Citizenship
and Immigration
Services**

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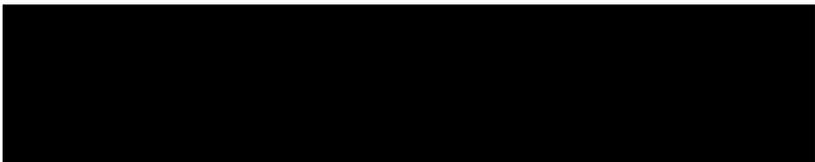


FILE: [REDACTED] Office: DALLAS Date: SEP 14 2007
MSC 02 185 60271

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:



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, or 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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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 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 further determined that the applicant had exceeded the forty-five (45) day limit for a single absence, from the United States during the requisite period, as set forth in 8 C.F.R. § 245a.15(c)(1).

On appeal, counsel states that the evidence submitted shows that the applicant “was in fact in the United States from March 20 to December 1998 [sic]. As well, the evidence submitted . . . indicates that [the applicant] was not outside the United States for more than 45 days.” Counsel submits a letter 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).

“Continuous unlawful residence” is defined in the regulations at 8 C.F.R. § 245a.15(c)(1), as follows:

Continuous residence. An alien shall be regarded as having resided continuously in the United States if:

- (1) No single absence from the United States has exceeded *forty-five (45) days*, and the aggregate of all absences has not exceeded one hundred and eighty (180) days between January 1, 1982, and May 4, 1988, unless the alien can establish that due to *emergent reasons*, his or her return to the United States could not be accomplished within the time period allowed. [Emphasis added.]

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

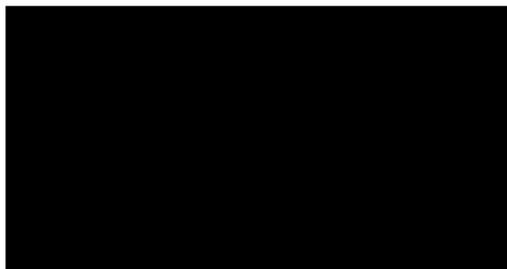
U.S. 421 (1987) (defining "more likely than not" as a greater than 50 percent probability of something occurring). If the director can articulate a material doubt, it is appropriate for the director to either request additional evidence or, if that doubt leads the director to believe that the claim is 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).

On his Form I-687, Application for Status as a Temporary Resident, which he signed under penalty of perjury on January 25, 1990, the applicant stated that he last arrived in the United States during the summer of 1981, when he crossed the border without inspection. The applicant stated that he had one absence from the United States during the qualifying period, from approximately May 1 to July 1, 1986, when he left for Pakistan under an order of voluntary departure. The applicant stated that during the qualifying period, he lived at the following addresses in the United States:

March 1981 to February 1982
March 1982 to August 1982
August 1982 to March 1983
September 1983 to March 1984
April 1984 to February 1985
February 1985 to April 1986
May 1986 to April 1987
April 1987 to September 1987
October 1987 to December 1987

December 1987 to January 1990

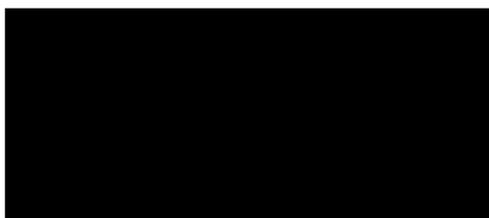


at unknown addresses in Dallas, Houston, and Pasadena, Texas



The applicant also stated that he worked for the following employers during the requisite period:

August 1981 to November 1981
April 1982 to July 1982
August 1982 to March 1983
March 1983 to December 1985
January 1986 to January 1988
February 1988 to February 1989



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 January 30, 1990 affidavit from [REDACTED], in which he stated that he had been a friend of the applicant's since 1981, and that the applicant visited him in his home in Itasca, Illinois during May of 1981.
2. A copy of a January 31, 1990 affidavit from [REDACTED], in which she stated that the applicant visited in her Itasca, Illinois home in May 1981.

3. A copy of a January 30, 1990 affidavit from [REDACTED], the applicant's sister, in which she stated that the applicant lived with from May 1981 to February 1982 at her home at [REDACTED] in Chicago. We note that the applicant stated on his Form I-687 application, that he began living at this address in March 1981.
4. A copy of a February 2, 1990 letter from the [REDACTED], signed by the office manager, in which he verified that the applicant worked part-time at the company as a cleaner from August to November 1981. The letter did not indicate the applicant's address at the time of his employment or whether the information regarding the applicant's employment was taken from company records, as required by 8 C.F.R. § 245a.2(d)(3)(i).
5. A copy of a January 31, 1990 message from the Social Security Administration, indicating that the applicant was issued a social security number on April 21, 1982.
6. A copy of a May 12, 1982 PS Form 3806, Receipt for Registered Mail, showing the applicant as the sender and addressed to the Consulate General Pakistan in New York, a copy of a May 1982 money order receipt from the applicant to the Consulate General of Pakistan, and a May 20, 1982 receipt issued to the applicant from the Consulate General of Pakistan in New York.
7. A copy of the applicant's pay stub from LEC North State Street Corporation for the period ending June 17, 1982.
8. The applicant's July 8, 1982 application for credit from Polk Bros., Inc.
9. A copy of the applicant's Illinois driver's license issued on February 22, 1983.
10. A copy of a temporary public vehicle chauffeur's permit for the applicant from the City of Chicago. The expiration date of the permit is March 28, 1983; however, the year in the date of issue is unclear. The applicant also submitted a copy of a fax document dated September 17, 2003, purportedly from the City of Chicago Department of Consumer Affairs, verifying that the applicant "was a Public Chauffeur Driver for the City of Chicago – 15 years 3 months." [Emphasis in the original.] On appeal, the applicant submitted a copy of another letter from the Department of Consumer Affairs, dated September 23, 2003. This letter indicates that the applicant "has been driving as a Public Chauffeur for the City of Chicago from **January 1, 1982 thru December 31, 1983.**" [Emphasis in the original.] The letter further indicates that the applicant subsequently reapplied for a license on March 20, 1990 and drive under a different license through December 1998. Neither of the letters is signed or offer any other indication of who provided the information regarding the applicant's chauffeur's license.

Further, the information in the letters is inconsistent. The first letter indicates that the applicant had maintained a chauffeur's license for 15 years, the other indicates that he had a broken period from 1983 to 1990, and possessed a chauffeurs' license for a total of only a little over 10 years. Additionally, although the year is unidentifiable, the temporary permit was issued on February 28. Thus, based on the applicant's alleged initial entry into the United States in the summer of 1981, the earliest date of his license would have been February 28, 1982. However, based on his documented work as a taxi driver, the earliest date of his license is most probable February 28, 1983. Regardless, the date of the applicant's license as a public chauffeur does not correspond with the date of his authority as outlined in either of the letters from the Chicago Department of Consumer Affairs. 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. 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. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988).

11. A copy of a June 28, 1995 letter from the Yellow Cab Company, indicating that the applicant had been "registered with this company in the past and qualified to lease a taxicab in accordance with the terms and conditions of Yellow Cab's lease agreement." The letter, signed by [REDACTED] from the records department, indicated that the applicant was registered from March 10, 1983 through February 9, 1991. The applicant did not claim to have ever worked for the Yellow Cab Company, and the company did not indicate that the applicant had ever driven a cab under the auspices of the Yellow Cab Company, despite his registration with the company. Additionally, the letter did not indicate the applicant's address at the time of his registration or whether the information regarding the applicant's registration was taken from company records. We note that the letterheads of Yellow Cab Company and Checker Taxi Company, Inc., discussed below, identify the companies as a division of Checker Motors Corporation. A document in the record contains a handwritten note reading "OK record at Checker per Debbie 7-20-90 In and out since March 1983." However, no evidence of record establishes that Yellow Cab and Checker Taxi are the same company or that they share company records.
12. A copy of a January 29, 1990 letter from [REDACTED] general manager of Checker Taxi Company in Chicago, in which he advises that the applicant was an intermittent independent contractor with the company from March 10, 1983 to December 16, 1985. The letter did not indicate the applicant's address at the time of his employment or whether the information regarding the applicant's employment was taken from company records, as required by 8 C.F.R. § 245a.2(d)(3)(i). The applicant also submitted a copy of a March 1, 1985 identification card from Checker Taxi Company.
13. A copy of a April 11, 1983 one-day lease agreement between the applicant and Checker Taxi Company, Inc.
14. An undated letter from Normandy Medical Center in Chicago. The letter is addressed to the applicant but does not provide a mailing address. The letter indicated that the applicant was last seen in the office on May 6, 1983.
15. A copy of the applicant's September 29, 1983 marriage license issued in Cook County, Illinois. The record also contains a copy of the applicant's May 17, 1984 divorce decree.
16. A copy of an inquiry conducted by the Illinois Secretary of State, indicating that the applicant had received traffic tickets in July, August, September and October 1984, and in March and July 1985.
17. Copies of the applicant's 1984 and 1985 Form 1040, U.S. Individual Income Tax Return. An August 25, 1986 letter from the Internal Revenue Service (IRS), notified the applicant that the IRS had not received his 1984 return. Additionally, the record does not reflect that the applicant filed a 1985 return with the IRS.

18. A copy of a February 2, 1990 letter from Jimmy Morgan Taxicab Association, Inc., signed by the office manager. The letter certified that the applicant worked for the company as a "lease driver" from January 15, 1985 to January 1988. The letter did not indicate the applicant's address at the time of his employment or whether the information regarding the applicant's employment was taken from company records, as required by 8 C.F.R. § 245a.2(d)(3)(i).
19. A copy of a March 1985 bond agreement for the applicant for a court appearance in Cook County, Illinois.
20. A copy of a March 21 and 28, 1985 one-day lease agreement between the applicant and Checker Taxi Company, Inc.
21. A copy of an April 11, 1985 revolving charge statement for the applicant.
22. A May 10, 1985 letter to the applicant from the Illinois Office of the Secretary of State, notifying him of the suspension of his driver's license.
23. Copies of a June 4, 1985 and a November 17, 1985 "Personal Resume of Prospective Lessee" from the Checker Taxi Company, Inc., showing the applicant as the prospective lessee.
24. A copy of a speeding ticket issued in Waco, Texas, with a court date of August 9, 1985. The applicant also submitted copies of October 2, 1986 receipts for payment of fines and costs from the McLennan County Courthouse, Waco, Texas, for violations that occurred on July 28 and August 3, 1985.
25. A copy of a December 16, 1985 one-day lease agreement between the applicant and Checker Taxi company, Inc. in Chicago.
26. A copy of a March 1986 bond agreement for the applicant for a court appearance in Cook County, Illinois.
27. A copy of a lease agreement between the applicant and Penny Cab Company, with a lease period of August 19 to August 26, 1986.
28. A copy of a September 30, 1986 United States postal Service express mail receipt, showing the applicant as the sender.
29. A copy of a September 30, 1986 money order receipt. However, the other information on the document, including names and addresses, are illegible.
30. A copy of an October 29, 1986 receipt from a car repair shop. The name of the customer is scratched out but the document bears the applicant's signature.
31. Copies of letters dated November 10, 1986 and December 2, 1986 from a Chicago law firm addressed to the applicant at [REDACTED] and [REDACTED], respectively. A March 17, 1986 letter is address to the applicant at [REDACTED] in Chicago. The applicant also submitted a June 30, 1986 letter from the firm, stating that the firm was representing the applicant in a January 22, 1986 automobile case.

The applicant also submitted a copy of an October 29, 1982 deposit receipt for a bank in Pasadena, Texas. However, the document does not identify the applicant or anyone else who made the deposit.

On appeal, the applicant submits a copy of a Morgan Cab Company lease agreement indicating that the applicant leased a vehicle from the company on March 1, 1987 for a period of one year.

While the applicant has submitted some evidence indicating that he resided in the United States from April 1982 to 1986, the evidence of his presence and continuous residence in the United States prior to April 1982 and from 1987 to 1988 is less than credible.

On his January 25, 1990 Form I-687 application, the applicant stated that he came to the United States in the summer of 1981, and stated that his only absence since January 1, 1982 was in May 1986, when he left pursuant to a grant of voluntary departure. However, the record contains a Form I-221S, Order to Show Cause, Notice of Hearing, and Warrant for Arrest of Alien, reflecting that the applicant entered the United States on April 4, 1982 pursuant to a B-2 nonimmigrant visitor's visa, which was valid until April 19, 1982. However, the applicant remained in the United States beyond the validity date of his visa, and was arrested on July 24, 1982. The applicant was released pursuant to a July 29, 1982 immigration delivery bond guaranteed by [REDACTED]

The applicant subsequently filed a Form I-589, Request for Asylum in the United States, on September 2, 1982, in which he admitted that to arriving in the United States on April 4, 1982. The applicant listed his address during this period as [REDACTED] Itasca, Illinois. We note that the applicant did not claim on his Form I-687 application to have lived at this address at any time during the qualifying period.

In a February 26, 1990 affidavit, the applicant stated that he left the United States on approximately May 1, 1986 pursuant to a grant of voluntary departure, and returned to the United States approximately 60 days later. The record contains a copy of a March 5, 1986 order from an immigration judge granting the applicant voluntary departure in lieu of deportation on or before July 5, 1986.

The applicant stated, and submitted documentation, that he drove taxicabs in Chicago from 1983 to 1988. However, he also submitted documentation that he was not licensed to drive a taxi in the city from 1984 to 1988.

Given the applicant's statement and other evidence of record that establishes he arrived in the United States in April 1982, and these inconsistencies regarding his employment as a taxi driver, it is concluded that the applicant has not established by a preponderance of the evidence that he resided continuously in the United States for the required period.

Additionally, by his own admission, the applicant was out of the United States for approximately sixty days in 1986, after leaving pursuant to a grant of voluntary departure. While not dealt with in the district director's decision, there must, nevertheless, be a further determination as to whether the applicant's prolonged absence from the United States was due to an "emergent reason." Although this term is not defined in the regulations, *Matter of C-*, 19 I. & N. Dec. 808 (Comm. 1988) holds that *emergent* means "coming unexpectedly into being." In other words, the reason must be unexpected at the time of departure from the United States. The applicant provides no explanation as to why his return to the United States was not, or could not have been accomplished, within the 45-day limit set by the statute.

Accordingly, the applicant's 60-day stay in Pakistan in 1986 interrupted his "continuous residence" in the United States. The applicant has, therefore, failed to establish that he resided in the United States in an unlawful status continuously from before January 1, 1982 through May 4, 1988, as required by the statute, section 1104(c)(2)(B)(i) of the LIFE Act, and the regulations, 8 C.F.R. § 245a.11(b) and 15(c)(1). Given this, he 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.