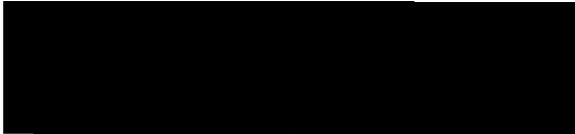


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SEP 19

FILE:



MSC 02 246 66121

Office: LOS ANGELES

Date:



IN RE: Applicant:



APPLICATION:

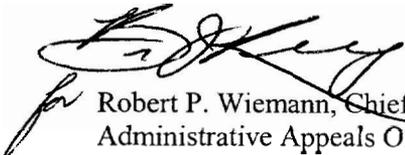
Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), amended by LIFE Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000).

ON BEHALF OF APPLICANT:

Self-represented

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits Center. 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. If your appeal was sustained or remanded for further action, you will be contacted.


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 (director) in Los Angeles, California. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The director denied the application on the ground that the applicant failed to establish that he resided continuously in the United States in an unlawful status from before January 1, 1982 through May 4, 1988.

On appeal the applicant submits a personal statement and some additional documentation.

To be eligible for adjustment to permanent resident status under the LIFE Act applicants must establish their continuous unlawful residence in the United States from before January 1, 1982 through May 4, 1988, as well as their continuous physical presence in the United States from November 6, 1986 through May 4, 1988. See section 1104(c)(2)(B)(i) and (C)(i) of the LIFE Act, 8 U.S.C. § 245A(a)(2)(A) and (3)(A).

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 its amenability to verification. See 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).

The regulation at 8 C.F.R. § 245a.2(d)(3)(i) states that letters from employers attesting to an applicant's employment must: provide the applicant's address at the time of employment; identify the exact period of employment; show periods of layoff; state the applicant's duties; declare whether the information was taken from company records; and identify the location of such company records and state whether such records are accessible or in the alternative state the reason why such records are unavailable.

The applicant, a native of Mexico who claims to have lived in the United States since 1980 or 1981, filed his application for legal permanent resident status under the LIFE Act (Form I-485) on June 3, 2002. At his interview for LIFE legalization on July 28, 2006, the applicant stated that he came to the United States in September 1980. As evidence thereof he submitted a statement from [REDACTED] a resident of North Hollywood, California, dated March 22, 2006, who stated that he met the applicant at a Thanksgiving dinner in 1981 or 1982 at his home in North Hollywood, that between then and 1988 he and the applicant worked as laborers at some of the same job locations, and that the applicant also helped him around the home.

On June 6, 2007, the director issued a Notice of Intent to Deny (NOID), indicating that the evidence of record did not establish by a preponderance of the evidence that the applicant had resided continuously in the United States from before January 1, 1982 through May 4, 1988. The applicant was granted 30 days to submit additional evidence. The applicant responded by letter dated June 21, 2007, in which he asserted that he has been in the United States since 1981, but did not submit any additional documentation.

On June 26, 2007, the director denied the application for failure of the applicant to establish his continuous unlawful residence during the requisite period for legalization under the LIFE Act.

On appeal the applicant reiterates his original contention that he first came to the United States in 1980, asserts that he has resided continuously in the United States since then, and submits an additional statement from a friend as corroborative evidence. The additional statement is from [REDACTED] a resident of Huntington Park, California, dated July 20, 2007, who indicated that he and the applicant first met each other in Mexico in 1963, that the applicant called and visited him in Los Angeles when he first arrived in the United States in late 1979, and that he and the applicant stayed in touch through mutual visits during the 1980s. [REDACTED] submitted a copy of a photograph with himself and two other individuals, one of whom is presumably the applicant, but did not positively identify those individuals and did not indicate where the photo was taken or when it was taken.

The issue in this proceeding is whether the applicant has furnished sufficient credible evidence to demonstrate that he resided continuously in the United States in an unlawful status from before January 1, 1982 through May 4, 1988. The AAO determines that he has not.

There is no contemporary documentation from the 1980s that shows the applicant to have resided continuously in the United States during the requisite time period for LIFE legalization. For someone claiming to have lived in the United States since 1980 or 1981, it is noteworthy that the applicant is unable to produce a solitary piece of primary or secondary evidence during the following seven or eight years through May 4, 1988.

The only evidence of the applicant's residence in the United States during the 1980s are the statements of [REDACTED], which provide only limited information. The statements provide few details about the applicant's life in the United States and his interaction with [REDACTED] over the years. The statements do not indicate where the applicant lived during the years 1981-1988, or where he worked at that time. Furthermore, neither [REDACTED] furnished any definitive evidence – such as photographs, letters, or other documentation – of their personal relationship with the applicant in the United States during the 1980s. As previously discussed, the copy of the photograph submitted by Mr. [REDACTED] identifies neither the locale or the time frame in which it was taken, and does not positively identify any of the three individuals in the photo. In view of these substantive shortcomings, the AAO finds that the statements of [REDACTED] have limited probative value. They are not persuasive evidence of the applicant's continuous unlawful residence in the United States from before January 1, 1982 through May 4, 1988.

Based on the foregoing analysis of the evidence, the AAO concludes that the applicant has failed to establish that he resided continuously in the United States in an unlawful status from before January 1, 1982 through May 4, 1988, as required under section 1104(c)(2)(B)(i) of the LIFE Act, 8 U.S.C. § 245A(a)(2)(A). Accordingly, the applicant is ineligible for permanent resident status under the LIFE Act.

The appeal will be dismissed, and the application denied.

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