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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

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[REDACTED]

FILE:

[REDACTED]

Office: LOS ANGELES

Date: FEB 05 2010

MSC 02 217 60497

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. 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.

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the Director, Los Angeles, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application after determining that 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. Specifically, the director noted various inconsistencies of record which raised questions about the credibility of the applicant's evidence.

On appeal, the applicant states that he has submitted relevant, probative and credible affidavits in support of his claim, and that his application should be approved.

An applicant for permanent resident status under section 1104 of the LIFE Act 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 through May 4, 1988. See § 1104(c)(2)(B) of the LIFE Act and 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 period, 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 states 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 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).

Here, the applicant submitted evidence that is not relevant, probative and credible. The applicant submitted the following information in support of his claim that he resided continuously in the United States from a date prior to January 1, 1982 through May 4, 1988:

- [REDACTED] submitted an affidavit that is general in nature stating that he first met the applicant in January of 1982 when the applicant was hired to paint an apartment. The affiant states that the two have maintained contact socially and at a mosque since that time.
- [REDACTED] submitted an affidavit that is general in nature stating that he first met the applicant in December of 1981 when he hired the applicant to make repairs on his car, and that the two have maintained contact socially since that time and attended religious services together from 1982 to 1985.
- [REDACTED] submitted an affidavit that is general in nature stating that he has known the applicant since 1981 when the applicant assisted him with an automotive problem. The affiant states that he has maintained contact with the applicant since that time as the applicant would assist him in repairing his car when needed.
- [REDACTED] submitted an affidavit stating that he has known the applicant since 1981 through various community events.
- [REDACTED] submitted an undated affidavit stating that he has personal knowledge that the applicant has resided in the United States since October 15, 1981. The affiant further states that he has personal knowledge that the applicant left the United States on July 15, 1987 for a two week visit to Pakistan.

As stated previously, the evidence must be evaluated not by the quantity of evidence alone but by its quality. The affidavits provided do not provide detailed evidence establishing how the affiants knew the applicant, the details of their association or relationship, or detailed accounts of an ongoing association establishing a relationship under which the affiants could be reasonably expected to have personal knowledge of the applicant's residence, activities and whereabouts during the requisite period covered by the applicant's Form I-687. To be considered probative, affidavits must do more than simply state that an affiant knows an applicant and that the applicant has lived in the United States for a specific time period. The affidavits must contain sufficient detail, generated by the asserted contact with the applicant, to establish that a relationship does in fact exist, how the relationship was established and sustained, and that the affiant does, by virtue of that relationship, have knowledge of the facts asserted. The affidavits statements submitted by the applicant, therefore, are not deemed probative and are of little evidentiary value.

The record contains the following inconsistencies about the applicant's residence and activities during the requisite period:

- The applicant states on a Form I-687 executed by him on March 28, 2005, that he was absent from the United States during the requisite period from September of 1987 until October of 1987.

The applicant states of a Form I-687 executed by him on April 4, 1990, that he was absent from the United States during the requisite period from July 15, 1987 until August 10, 1987.

The applicant's marriage license indicates that the applicant was married in Pakistan on September 4, 1984. In an attempt to explain this discrepancy, the applicant stated that he was married on the telephone through an arranged marriage in 1984, but that his marriage was not actually consummated until he returned to Pakistan in September of 1987. Even if that statement were accepted as true, it still conflicts with the information contained on the Form I-687 signed by the applicant in 1990 wherein he states that his only absence from the United States during the requisite period occurred from July 15, 1987 to August 10, 1987.

During an interview before a United States Citizenship and Immigration Services (USCIS) officer on March 5, 2004, the applicant stated under oath that he was married in Pakistan on September 11, 1987. He stated that he originally entered the United States through Canada on October 15, 1981, where he crossed the border without inspection near Seattle, Washington. The applicant stated that he had been a crewman on the ship Rosebud, of Greek registry, when he jumped ship in Canada.

As previously noted, the applicant's passport contains a notation stating that he had previously traveled on a passport issued in Muscat on December 1, 1986. The applicant denies being outside the United States in 1986 and states that a notary gave false information in order to obtain the passport for him.

The Form I-687 executed by the applicant on April 4, 1990 states that the applicant resided at [REDACTED] from October 15, 1981 until the date the Form I-687 was signed. The applicant stated on the Form I-687 signed by him on March 28, 2005, that he lived at [REDACTED] from October of 1981 until October of 1987, and then at [REDACTED] from October of 1987 until April of 1991.

The applicant stated on the Form I-687 signed by him on April 4, 1990, that he was self-employed as a handyman from October 15, 1981 until the date the application was signed. On the Form I-687 signed by the applicant on March 28, 2005, the applicant stated that he worked as a self-employed mechanic from October of 1981 until November of 1988, and then as a mechanic for Air Port Mobil and Auto Center in Inglewood, California from November of 1988 until June of 1990.

The inconsistencies noted have not been satisfactorily explained and are material to the applicant's claim because they have a direct bearing on the applicant's activities and whereabouts during the requisite period. 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 petitioner submits competent objective evidence pointing to where the truth lies. Doubt cast on any aspect of the petitioner's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). The evidence submitted in support of the applicant's claim lacks credibility, and it cannot be determined from the record where the truth actually lies with regard to the applicant's claim.

- The applicant submitted two statements signed by [REDACTED], which state that [REDACTED] has known the applicant personally since 1981 and that the applicant is an active member of the Mosque.

The regulation at 8 C.F.R. § 245a.2(d)(3)(v) provides requirements for attestations made on behalf of an applicant by churches, unions, or other organizations. Attestations must: (1) Identify applicant by name; (2) be signed by an official (whose title is shown); (3) show inclusive dates of membership; (4) state the address where applicant resided during membership period; (5) include the seal of the organization impressed on the letter or the letterhead of the organization, if the organization has letterhead stationery; (6) establish how the author knows the applicant; and (7) establish the origin of the information being attested to.

Neither of these letters comply with the above cited regulation because they do not: establish in detail that the author knows the applicant and has personal knowledge of the applicant's whereabouts during the requisite period; establish the origin of the information being attested to; and indicate that membership records were referenced or otherwise specifically state the origin of the information being attested to. For this reason, the letters are of little probative value. Further, the applicant indicated on both of his Forms I-687 that he had no affiliations with any organizations, churches, etc.

The only other evidence submitted by the applicant in support of his application is his personal statement. The applicant's statement, however, in the absence of other credible and relevant evidence establishing that he resided in the United States throughout the requisite period, and in consideration of the inconsistencies of record noted above, will not sustain his claim. As previously noted, in order to meet his or her burden of proof, an applicant must provide evidence of eligibility apart from his or her own testimony, and the sufficiency of all evidence produced by the applicant will be judged according to its probative value and credibility. 8 C.F.R. § 245a.2(d)(6).

The absence of sufficiently detailed documentation to corroborate the applicant's claim of continuous residence for the entire requisite period, and the inconsistencies noted above, seriously detract from the credibility of his claim. Pursuant to 8 C.F.R. § 245a.2(d)(5), the inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. Given the applicant's reliance upon documents with minimal probative value, and the inconsistencies noted, it is concluded that the evidence submitted fails to establish continuous residence in an unlawful status in the United States during the requisite period.

Thus, it is found that the applicant has failed to establish continuous residence in an unlawful status in the United States from prior to January 1, 1982 through May 4, 1988. Accordingly, the applicant is not eligible for adjustment to permanent resident status under section 1104 of the LIFE Act.

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