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FILE:

MSC 01 324 60099

Office: LOS ANGELES

Date: AUG 01 2006

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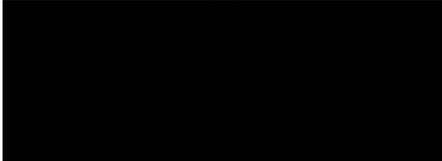
Applicant:



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. 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 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 that the applicant has submitted sufficient documentation establishing continuous residence in the United States from prior to January 1, 1982 through May 4, 1988. Counsel provides copies of documents that were previously submitted in support of the appeal.

It is noted that the director, in denying the application, did not address the evidence furnished initially, and in response to the Notice of Intent to Deny, and did not set forth the specific reasons for the denial pursuant to 8 C.F.R. § 103.3(a)(1)(i). As such, the documentation submitted throughout the application process will be considered on 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. 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 throughout the application process.

- An affidavit notarized April 24, 1991 from [REDACTED] of North Hollywood, California, who indicated that the applicant was in his employ at The Washing Machine, a laundry shop in Los Angeles from June 1981 to July 1984.
- An undated letter from [REDACTED] of Los Angeles, California, who indicated that he has known the applicant since 1981. [REDACTED] asserted that he was a close friend of [REDACTED] and attested to the applicant's employment and residence with [REDACTED]. [REDACTED] asserted that he has remained in contact with the applicant since that time.
- A personal check dated July 16, 1987 from the applicant, which reflected his California address as [REDACTED].
- An escrow trust receipt dated July 27, 1987 from Service Escrow Company in Los Angeles, California.
- A deposit receipt dated July 16, 1987 for A&B Stores located at [REDACTED] Hollywood.
- A cashier's check dated July 22, 1987 signed by the applicant and issued by Bank of America.
- A Police Commission Permit issued on April 20, 1991 to the applicant for property at [REDACTED]. The permit indicated that it was initially granted on October 27, 1987.
- A California identification card issued on February 18, 1983.
- A social security statement printout dated October 22, 2001, reflecting the applicant's earnings from 1983 through 1987. No earnings were listed for 1988.
- Two envelopes postmarked December 17, 1981 and August 18, 1982 to the applicant at [REDACTED]. The applicant also provided a third envelope that he claimed was postmarked in November 1981; however, the postmark was indecipherable.
- A notarized affidavit from [REDACTED] of Los Angeles, California, who indicated that he met the applicant in August 1981 and attested to the applicant's residences in Los Angeles, Hollywood, and Van Nuys during the requisite period. [REDACTED] asserted that he has remained in contact with the applicant since time.
- A notarized affidavit from [REDACTED] of Sherman Oaks, California, who attested to the applicant's residences in Los Angeles, Hollywood, and Van Nuys during the requisite period. [REDACTED] asserted that he and the applicant attend social gatherings and dinner parties.

- A letter dated May 15, 2004 from [REDACTED] of Victorville, California, who indicated that he has known the applicant since August 1981. [REDACTED] indicated that he used to reside in Los Angeles and attested to the applicant's character and residence at [REDACTED].

The statements of counsel on appeal regarding the amount and sufficiency of the applicant's evidence of residence have been considered. The AAO, however, does not view the documents discussed above as substantive enough to support a finding that the applicant entered and began residing in the United States before January 1, 1984 through February 18, 1983. Specifically:

1. According to the affidavits the applicant submitted with his Form I-485 application, the applicant resided at [REDACTED] Los Angeles from June 1981 to June 1983. However, the applicant submitted an envelope postmarked December 26, 1981 addressed to him at a different address: [REDACTED].
2. According to the affidavits, the applicant resided at [REDACTED] from February 1983 to February 1984; however, said residence is inconsistent with his identification card that was issued on February 18, 1983 with an Inglewood address.
3. The stamps named Mobile Post Office on the envelope postmarked August 18, 1982 was not issued until 1983 at the earliest.<sup>1</sup>

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 during the requisite period, 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.

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<sup>1</sup> See *Scott 2007 Standard Postage Stamp Catalogue, Vol. 1, p. 691.*