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

LA

FILE:

[REDACTED]

Office: DALLAS

Date: **FEB 27 2006**

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. Any further inquiry must be made to that office.

Robert P. Wiemann, Director  
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 since 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 states that the applicant's legal entry in 1986 did not interrupt his continuous unlawful presence as he reentered the United States with a visa in order to return to an unrelinquished unlawful presence. Counsel provides copies of the documents previously submitted.

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).

When something is to be established by a preponderance of the evidence it is sufficient that the proof establish that it is probably true. *See Matter of E-- M--*, 20 I&N Dec. 77 (Comm. 1989).

Although 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).

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 9, 2002 from [REDACTED] owner of The Burden Corners at [REDACTED] who indicated that the applicant was in his employ from November 1, 1981 until April 1985.
- A customer payment record dated December 3, 1987 from The Promenade National Bank in Richardson, Texas.
- A check receipt dated February 11, 1987 from the law firm of [REDACTED] in Dallas, Texas.
- A vehicle registration document date stamped August 18, 1987.
- A motor vehicle retail installment contract dated December 23, 1987 from [REDACTED] Inc. in Dallas, Texas.

- A letter dated April 15, 2002 from a representative of Compass Bank in Texas, indicating that the applicant has been a customer since July 1986.
- A social security statement dated October 5, 2001 reflecting the applicant's earning since 1986.
- A copy of a federal income tax refund check for the tax year of 1987.
- A document from the Internal Revenue Service regarding the applicant's tax account for 1987.
- A document dated February 12, 1987 from Time Insurance Company pertaining to his daughter's medical expenses.
- An untitled document pertaining to a visa account opened in the applicant's name on November 19, 1986.
- A copy of his Form I-94, arrival/departure record reflecting that he was admitted into the United States with a B-2 visa on January 15, 1987.

The director, in his Notice of Intent to Deny issued on September 4, 2003, informed the applicant that the Texas State Tax records could not verify that [REDACTED] previous business, The Burden Corner, had existed. The applicant was provided 30 days in which to overcome the adverse evidence. The applicant, however, failed to respond to the notice.

As conflicting information has been provided, it is reasonable to expect an explanation from the affiant in order to resolve the contradiction. However, no statement from Mr. [REDACTED] has been submitted to resolve this contradiction.

The record contains additional contradicting information of which no explanation has been provided. The application indicated on his Form I-687 application employment as a painter with A.C. Painting from August 1980 to 1982, and as a self-employed painter from 1982 to August 1986. No employment with [REDACTED] was claimed on his Form I-687 application.

This factor along with the fact that the Texas State Tax records had no record of [REDACTED] previous business raises questions about the authenticity of affidavit presented by [REDACTED]. As such, [REDACTED] affidavit has no probative value or evidentiary weight. It is noted that [REDACTED] affidavit is the only evidence relating to 1981 to 1985. All of the contemporaneous evidence relates to 1986 and 1987.

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).

Based on the evidence in this case, the AAO determines 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 since that time through May 4, 1988, as required under 1104(c)(2)(B)(i) of the LIFE Act and 8 C.F.R. § 245a.11(b).

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