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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE: [Redacted]
MSC 02 205 60242

Office: Los Angeles

Date: JUN 02 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:

SELF-REPRESENTED

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 "R. 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, Los Angeles, 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 she had continuously resided in the United States in an unlawful status from before January 1, 1982 through May 4, 1988.

On appeal, the applicant states that he has promptly submitted documentation to overcome all grounds for denial of his application and that he is eligible for adjustment of status under section 245a.10 of the LIFE Act. The applicant submits additional documentation 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 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).

In an attempt to establish continuous unlawful residence since before January 1, 1982, as claimed, the applicant, furnished the following documentation:

- An April 8, 1990 sworn affidavit from [REDACTED] who stated that the applicant lived in Santa Ana, California from 1981 to the date of the affidavit, and that he rented “in her house.”

- A May 26, 2004 sworn statement from [REDACTED] who stated that she has known the applicant since 1973, and that he entered the United States in May 1981, and visited her house on a frequent basis whenever he came to California.
- Three envelopes from the applicant to an address in Mexico, with cancelled U.S. postmarks dated in 1981.
- An envelope addressed to the beneficiary in Kennett Square, Pennsylvania, containing a handwritten date of 1984. However, the cancelled Mexican postmark is not legible.
- Two Forms W-2, Wage and Tax Statements, dated 1985 and 1986, issued to the applicant by Mimi's Café-Tustin.
- The applicant's 1985 State of California driver's license.
- An envelope reflecting that it was sent by the applicant to an address in Mexico, with a cancelled U.S. postmark dated 1985.
- Pay stubs for the applicant dated in 1986 from [REDACTED] West in Orange, California.
- A 1988 Form W-2 issued to the applicant by [REDACTED] in Huntington Beach, California.
- An envelope reflecting that it was sent by the applicant to an address in Mexico, with a cancelled U.S. postmark dated 1988.

On appeal, the applicant submits an affidavit from his parents, who state that he has been in the United States since 1981, and that he also has used the name [REDACTED]. The applicant indicated on the Form G-325A, Biographic Information, that he also used the [REDACTED] but did not mention that he used the name [REDACTED]. The applicant did not list any aliases on the Form I-687, Application for Status as a Temporary Resident, or on the Form I-765, Application for Employment Authorization, that he signed in March 1996. The applicant submitted no documentation to establish that he is the same person as either of the two aliases claimed. Therefore, documentation consisting of envelopes addressed to and from these individuals that was submitted in support of this application is deemed not credible, and will not be considered. Doubt cast on any aspect of the petitioner's proof may, of course, 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 (BIA 1988). If Citizenship and Immigration Services (CIS) fails to believe that a fact stated in the petition is true, CIS may reject that fact. Section 204(b) of the Act, 8 U.S.C. § 1154(b); see also *Anetekhai v. I.N.S.*, 876 F.2d 1218, 1220 (5th Cir.1989); *Lu-Ann Bakery Shop, Inc. v. Nelson*, 705 F. Supp. 7, 10 (D.D.C.1988); *Systronics Corp. v. INS*, 153 F. Supp. 2d 7, 15 (D.D.C. 2001).

Further, the applicant submitted highly suspect lease agreements for the periods 1981 through 1984. The landlord for all appears to [REDACTED] one of the aliases allegedly used by the applicant. Additionally, although the applicant allegedly changed states of residency, the landlord on the leases and the terms of the leases remained the same. Further, the version of the preprinted lease agreements submitted as evidence postdates the dates the applicant allegedly executed the leases. *Id.* This documentation is also inconsistent with the affidavit provide by [REDACTED] who stated that the applicant rented from her

and that he has lived in Santa Ana, California since 1981. 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. *Matter of Ho*, 19 I&N Dec. at 591-92.

While the envelopes bearing the applicant's name appear to be credible, they serve only to establish presence in the United States during specified time frames. Because of the unresolved inconsistencies in the record and suspect documentation submitted in support of this application, the applicant has not established by a preponderance of the evidence that it was more likely than not that he resided in the United States from the period prior to January 1, 1982 until 1985, where there exists more credible evidence of his residency.

Therefore, the applicant has failed to establish that he resided in continuous unlawful status in the United States from before January 1, 1982 through May 4, 1988, as required under section 1104(c)(2)(B) of the LIFE Act. 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.