



U.S. Citizenship  
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FILE:

MSC 02 242 62235

Office: Los Angeles

Date: JUN 1 2 2006

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. 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.

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 (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, the applicant acknowledges that he began residing in the United States in 1982.

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. 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 periods, is admissible to the United States under the provisions of section 212(a) of the Immigration and Nationality Act (Act), 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. See 8 C.F.R. § 245a.12(e).

Although the regulation at 8 C.F.R. § 245a.2(d)(3) provides an illustrative list of contemporaneous documents that an applicant may submit in support of his or her claim of continuous residence in the United States in an unlawful status since prior to January 1, 1982 to May 4, 1988, the submission of any other relevant document including affidavits is permitted pursuant to 8 C.F.R. § 245a.2(d)(3)(vi)(L).

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.

At issue in this proceeding is whether the applicant has submitted sufficient credible evidence to 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. Here, the submitted evidence is not relevant, probative, and credible.

The applicant made a claim to class membership in a legalization class-action lawsuit and as such, was permitted to previously file a Form I-687, Application for Temporary Resident Status Pursuant to Section 245A of the Immigration and Nationality Act (Act) on May 10, 1990. At part #33 of the Form I-687 application where applicants were asked to list all residences in the United States since the date of their first entry, the applicant listed [REDACTED] in Los Angeles, California from March 24, 1980 to January 2, 1986, [REDACTED] in Los Angeles, California from January 2, 1986 to November 9, 1986, and [REDACTED] in Los Angeles, California from November 9, 1986 to May 10, 1990, the date the Form I-687 application was filed.

In support of his claim of continuous residence in this country since prior to January 1, 1982, the applicant submitted the following contemporaneous documents: a receipt for the repair of a vacuum cleaner dated February 26, 1982, a photocopied promissory note dated June 12, 1982, a prescription dated November 11, 1985, and a paycheck stub dated October 15, 1986. Although these contemporaneous documents tend to corroborate the applicant's claim of residence in this country from February 26, 1982 onwards, the applicant failed to provide any contemporaneous evidence to establish residence in the United States from prior to January 1, 1982 to February 25, 1982.

The applicant provided an employment letter dated May 7, 1990 and containing the letterhead of [REDACTED] in Los Angeles, California that is signed by [REDACTED] vice-president of Administrative Services. Mr. [REDACTED] stated that the applicant had been employed by this enterprise since October 1, 1987 and his current position was parking patrol attendant. While Mr. [REDACTED] testimony supports the applicant's claim of residence in this country after October 1, 1987, he failed to provide any information relating to the applicant's residence in the United States from prior to January 1, 1982 to September 1987.

The applicant included an affidavit that is signed by [REDACTED] who stated that she had personal knowledge that the applicant resided in Los Angeles, California from June 1981 to May 1990. However, Ms. [REDACTED] failed to state the source of her knowledge regarding the applicant's residence in this country for the requisite period. Further, Ms. [REDACTED] did not provide any specific verifiable testimony such as the applicant's addresses of residence in the United States for the period in question.

The applicant submitted an affidavit that is signed by [REDACTED] who declared that she had personal knowledge that the applicant resided in Los Angeles, California at [REDACTED] from August 1981 to March 1987 and [REDACTED] from March 1987 to May 1990. However, Ms. [REDACTED] failed to state the source of her knowledge regarding the applicant's residence in this country for the requisite period. In addition, Ms. [REDACTED] testimony regarding the applicant's addresses of residences directly conflicts with the applicant's testimony that he resided at [REDACTED] in Los Angeles, California from March 24, 1980 to January 2, 1986, [REDACTED] in Los Angeles, California from January 2, 1986 to November 9, 1986, and [REDACTED]

██████████ in Los Angeles, California from November 9, 1986 to May 10, 1990 at part #33 of the Form I-687 application.

The applicant provided an affidavit that is signed by ██████████ who stated that he had personal knowledge that the applicant resided in Los Angeles, California at ██████████ from August 1981 to April 1987 and ██████████ from April 1987 to May 1990. However, Mr. ██████████ failed to state the source of his knowledge regarding the applicant's residence in this country for the requisite period. Further, Mr. ██████████'s testimony regarding the applicant's addresses of residences contradicts the applicant's testimony that he resided at '██████████' in Los Angeles, California from March 24, 1980 to January 2, 1986, ██████████ in Los Angeles, California from January 2, 1986 to November 9, 1986, and ██████████' in Los Angeles, California from November 9, 1986 to May 10, 1990 at part #33 of the Form I-687 application.

The record shows that the applicant filed his Form I-485 LIFE Act application with the Immigration and Naturalization Service, or the Service (now Citizenship and Immigration Services or CIS) on May 30, 2002. With the Form I-485 Life Act application, the applicant submitted a Social Security Administration Statement that reflects that he began earning wages subject to Social Security withholding taxes beginning in 1985.

The record shows that the applicant appeared for an interview relating to his Form I-485 LIFE Act application on May 19, 2004. The notes of the interviewing officer reflect that during the course of this interview, the applicant testified under oath that his initial entry into the United States occurred on January 16, 1982. The record contains a signed sworn statement written by the applicant in his own hand that states in pertinent part: "I [applicant's name] enter the United State on January 1-16-82 at Maimi Airport for a visit." The applicant's admission that he entered the United States on January 16, 1982 seriously impairs the credibility of his claim that he resided in this country prior to January 1, 1982, as well as the credibility of any and all documents submitted in support of that claim.

On June 16, 2004, the district director issued a notice of intent to deny to the applicant informing him of CIS' intent to deny his LIFE Act application because of the fact that he failed to submit sufficient credible evidence of continuous unlawful residence in the United States for the period in question. The district director also noted that the applicant himself had provided testimony and a sworn statement at his interview in which he admitted entering the United States on January 16, 1982. The applicant was granted thirty days to respond to the notice and provide additional evidence in support of his claim of residence in the requisite period.

In response, the applicant submitted a letter signed by ██████████ who declared that he had known the applicant for twelve years because they worked together doing construction on occasion. However, Mr. ██████████ failed to provide any relevant testimony relating to the applicant's residence in this country from prior to January 1, 1982 to May 4, 1988.

The applicant also provided a letter signed by ██████████ who stated that he had personal knowledge that applicant resided in Los Angeles, California since January 1982. However, Mr. ██████████'s testimony that the applicant resided in this country since January 1982 only serves as further evidence confirming the applicant's admission that he entered the United States on January 16, 1982.

The district director determined that the applicant failed to submit sufficient evidence demonstrating his residence in the United States in an unlawful status from January 1, 1982 through May 4, 1988, and, therefore, denied the Form I-485 LIFE Act application on September 7, 2004.

On appeal, the applicant states, "The reason why I am filing an appeal is because I was in the United State since 1982." The applicant's acknowledgement that he did not reside in this country prior to January 1, 1982 negates the credibility of his prior claim of residence in this country for the **entire** requisite period as put forth in the Form I-687 application and supporting documents.

Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the 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).

The absence of sufficiently detailed supporting documentation and the existence of conflicting testimony that contradicts critical elements of the applicant's claim of residence seriously undermines the credibility of the supporting documents, as well as the credibility of the applicant's claim of residence in this country for the period in question. The applicant himself has negated the credibility of his claim of continuous residence in this country since prior to January 1, 1982 by providing a signed sworn statement written in his own hand in which he admitted that he entered this country on January 16, 1982. Pursuant to 8 C.F.R. § 245a.12(e), the inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. The applicant has failed to submit sufficient credible documentation to meet his burden of proof in establishing that he has resided in the United States since prior to January 1, 1982 to May 4, 1988 by a preponderance of the evidence as required under both 8 C.F.R. § 245a.12(e) and *Matter of E-- M--*, 20 I&N Dec. 77 (Comm. 1989).

Given the applicant's reliance upon supporting documents with minimal probative value and his admission that he entered this country on January 16, 1982, it is concluded that he has failed to establish continuous residence in an unlawful status in the United States from prior to January 1, 1982 through May 4, 1988 as required under section 1104(c)(2)(B) of the LIFE Act. The applicant is, therefore, ineligible for permanent resident status under section 1104 of the LIFE Act on this basis.

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