

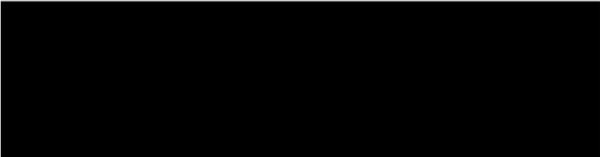


U.S. Citizenship
and Immigration
Services

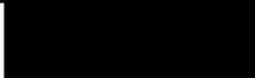
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FILE:



Office: LOS ANGELES

Date: JUN 23 2006

MSC 02 113 62111

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. 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 concluded that the applicant's documentation submitted was at variance with the information initially provided on his Form I-687 application, thereby casting credibility issues on his claim to have continuously resided in the United States in an unlawful status from before January 1, 1982 through May 4, 1988. As such, the director denied the application.

On appeal, the applicant reiterates his claim to have been employed by [REDACTED] in 1981 and 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. 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).

Here, the submitted evidence is not relevant, probative, and credible. In an attempt to establish continuous unlawful residence since before January 1, 1982 through May 4, 1988, the applicant provided the following evidence:

- An envelope postmarked May 1983 and addressed to the applicant at [REDACTED] Los, Angeles, California.

- An affidavit notarized April 8, 1992 from [REDACTED] of Los Angeles, California, who indicated that she met the applicant in 1981 and attested to the applicant's residence in Los Angeles since 1981. Ms. [REDACTED] asserted that she has remained great friends with the applicant since that time.
- An affidavit notarized April 8, 1992 from [REDACTED] of Los Angeles, California, who attested to the applicant's character and to his residence in Los Angeles since 1981.
- A letter dated February 14, 1992 from [REDACTED] who indicated that the applicant was in his employ in 1981 and 1982 in food related services on a mobile truck.
- An earnings statement for the period ending May 16, 1983, which listed the applicant's net earnings as \$18.89.
- A rental receipt for tables and chairs dated December 10, 1984.
- A lease agreement entered into on February 1, 1985 for residence at [REDACTED] Los Angeles, California.
- A letter dated June 4, 1986 from the Better Business Bureau for Los Angeles and Orange Counties, advising the applicant of a complaint he had previously filed.
- A document in the Spanish language addressed to the applicant at [REDACTED] Los Angeles in 1987.

The applicant submitted a copy of Form 1040EZ for the 1982 tax year. The 1982 income tax return has no evidentiary weight or probative value, as it was not certified as being filed. The applicant also submitted an earnings statement for the period ending July 19, 1987; however, the earnings statement cannot be considered as it was addressed to someone other than the applicant.

On April 18, 2003, the director issued a Form I-72, advising the applicant for furnish evidence of his continuous presence in the United States from 1981 to 1984. The record does not contain a response.

On September 3, 2004, the director issued a Notice of Intent Deny informing the applicant of the inconsistencies between his oral testimony, his LIFE and Form I-687 applications. Specifically, at the time of his LIFE interview, the applicant indicated that he met [REDACTED] in 1985; however, the letter submitted by Mr. [REDACTED] attested to the applicant's **employment in 1981 and 1982**. In addition, the applicant indicated that he had not departed the United States since his initial entry; however, [REDACTED] indicated that the applicant was absent in 1987, and on his Form I-687 application and Form for Determination of Class Membership the applicant listed a 1987 absence from the United States.

As noted by the director, the applicant had previously indicated on his Form I-687 application and Form for Determination of Class Membership that he did depart in 1987. As such, any possible discrepancy regarding the applicant's amended statement at the time of his interview can be deemed to be minor and not prejudicial to the applicant's claim.

The applicant, in response, reasserted his employment with Mr. [REDACTED] in 1981 and 1982. The applicant asserted, "...it has been over twenty three years since many of this information took effect. I'm sure that most of the

people do not remember many things that happened twenty years ago.” The applicant provided a copy of the Mr. [REDACTED] letter that was previously submitted.

The applicant’s statement has been considered; however, employment letter from Mr. [REDACTED] has little evidentiary weight or probative value as the affiant failed to provide a telephone number or address and, therefore, the letter is not amenable to verification by the Citizenship and Immigration Services. As conflicting statements have been provided, it is reasonable to expect an explanation from the affiant in order to resolve the contradictions. However, no statement from Mr. [REDACTED] has been submitted to reaffirm his letter.

Although item 36 of the Form I-687 application requests the applicant to list the full name and address of his employers, the applicant failed to provide an address for any of his employers including Mr. [REDACTED]. As such, the applicant’s alleged employments are not amenable to verification by the Citizenship and Immigration Services.

In addition, the address on the lease agreement submitted by the applicant does not correspond with any address the applicant claimed on his Form I-687 application during the period in question. No explanation has been provided for this contradiction.

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 from before January 1, 1982 through May 4, 1988, 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.