



U.S. Citizenship  
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[Redacted]

FILE: [Redacted] MSC 02 113 62801

Office: Los Angeles

Date: MAR 29 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. 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.

*Mari Johnson*

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, 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 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 previously submitted documentation in support of the 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 or 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.

Here, the submitted evidence is not relevant, probative, and credible.

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).

The record contains the following documents relevant to the application:

- An August 1, 1990 sworn affidavit from [REDACTED] who stated that the applicant had worked for him at the [REDACTED] restaurant from October 1981 to May 1985, and that due to “unavoidable circumstances,” he had to close the restaurant. [REDACTED] stated that during that time, the applicant resided at [REDACTED] Scottsdale, Arizona.
- Two affidavits from [REDACTED], who stated that the applicant worked for him at the Indian [REDACTED] Cuisine of India from March 1987 to November 1988, and that the beneficiary resided at [REDACTED] in Phoenix, Arizona at that time.
- An affidavit from [REDACTED] indicating that the applicant worked at the [REDACTED] restaurant from December 1981 to February 1987, and that at the time he was residing at [REDACTED] in Scottsdale, Arizona.
- An October 9, 1990 sworn affidavit from [REDACTED] stating that he has known the applicant since 1981, when they met at the temple. [REDACTED] stated that the applicant lived at 8052 [REDACTED] in Scottsdale from December 1981 until May 1986, at [REDACTED] in Phoenix from June 1986 to February 1987, and at [REDACTED] in Phoenix from March 1987 until November 1988.
- A July 15, 2004 sworn statement from [REDACTED] who stated that he has known the applicant since 1986, and that they meet at the temple.
- A July 15, 2004 letter from [REDACTED] who stated that he “first came into contact” with the applicant at the temple in 1981.
- An August 30, 2004 sworn affidavit from [REDACTED] who stated that he met the applicant in June 1985 at a friend’s wedding, and that the applicant’s friend told him that the applicant came to the United States in 1981.
- An unsworn statement from [REDACTED] who stated that he first met the applicant in November 1983 at temple, and that the applicant told him that the applicant had been living in Phoenix since 1981.

The record also contains three Forms I-687, Application for Status as a Temporary Resident, for the applicant. The first, dated 1990, listed no work or residence history for the applicant. Another Form I-687, submitted on April 11, 1990, indicates that the applicant worked at the [REDACTED] restaurant from December 1981 to May 1985, and listed no employment from June 1985 through February 1987. The residence history indicates that the applicant lived at [REDACTED] in Scottsdale from December 1981

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<sup>1</sup> Although the signature line reads [REDACTED], the individual’s name appears as [REDACTED] elsewhere in this affidavit and throughout the remainder of the evidence.

to May 1985, and listed no residency from June 1985 through February 1987. A third undated Form I-687 indicates that the applicant worked for the [REDACTED] from December 1981 to February 1987, and that he lived at [REDACTED] in Scottsdale from December 1981 to May 1986. Thus, the applicant and affiants have attested to different, conflicting information.

Additionally, we note that in one affidavit, [REDACTED] indicated that the applicant resided at [REDACTED] while his sworn 1990 affidavit indicated that the applicant resided at [REDACTED] in Phoenix.

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. 582, 591-92 (BIA 1988). **The record contains no explanation for these inconsistencies. Based on the contradictory statements from [REDACTED] his affidavits cannot be considered credible evidence of the applicant's presence in the United States in December 1981, when he allegedly began working at the [REDACTED] restaurant. Further, although [REDACTED] indicated that he "first come [sic] into contact" with the applicant in 1981, his statement lacks sufficient detail to provide corroborative evidence of the applicant's presence in the United States in 1981.**

In addition, the record contains evidence that as a result of Operation Catchhold, a joint investigation between legacy Immigration and Naturalization Service and the Federal Bureau of Investigation, the alien was identified as having procured his Form I-688A Employment Authorization Document through the payment of a bribe. Twenty-two middlemen brokers were identified as having paid bribes to an undercover officer on behalf of 1,350 aliens, including the alien, and 18 of these brokers were ultimately prosecuted and convicted. On May 8, 1997, the applicant's membership in a legalization class-action lawsuit was revoked on the basis of the bribe. In an affidavit dated January 8, 2002, the applicant denied that he paid a bribe, and suggested that he "merely paid a service charge to a local community leader who assisted him with his application." However, the Notice of Intent to Revoke specifies that the alien's application for status as a legalization class-action member, "with bribe payment, was earmarked and segregated" and ultimately submitted to the undercover officer. The evidence in the record regarding this applicant's bribe raises additional questions regarding his credibility in this proceeding.

At issue, first and foremost, are serious questions of credibility that have arisen from the applicant's submissions. It is impossible for us to find that all of the applicant's claims are true, because those claims are sometimes in conflict. Given these credibility issues, we cannot simply take unsupported claims at face value. Competent objective evidence would overcome these issues, pursuant to *Matter of Ho*, but the applicant admits that first-hand documentary evidence is virtually nonexistent due to his employers' payments of undocumented and "under the table" wages, deficient record keeping and other factors. The lack of primary evidence, coupled with the inconsistent claims in the affidavits, leaves little foundation upon which we could confidently base a finding of eligibility.

A few errors or minor discrepancies are not reason to question the credibility of an alien or an employer seeking immigration benefits. *See, e.g., Spencer Enterprises Inc. v. U.S.*, 345 F.3d 683, 694 (9<sup>th</sup> Cir.,

2003). However, anytime an application includes numerous errors and discrepancies, and the applicant fails to resolve those errors and discrepancies after CIS provides an opportunity to do so, those inconsistencies will raise serious concerns about the veracity of the applicant's assertions. Doubt cast on any aspect of the applicant's proof may undermine the reliability and sufficiency of the remaining evidence offered in support of the application or visa petition. *Matter of Ho*, 19 I&N Dec. at 591. In this case, the discrepancies and errors catalogued above, as well as the evidence that the alien's class membership was revoked based on fraud, lead the AAO to conclude that the evidence of the applicant's claimed residency is not credible. Thus, the record does not contain any contemporaneous evidence, or other sufficient credible evidence, to establish that the applicant resided in the United States prior to January 1, 1982.

The applicant has, therefore, 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.