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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE: [Redacted]

Office: DALLAS

Date: SEP 05 2006

MSC 02 214 60193

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:



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.

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

On appeal, the applicant asserts that his former counsel had submitted additional documentation that was not considered by the director. The applicant states, "I have already provided the genuine proof of stay earlier as I used to work at home at the young age during that time so I cannot provide you any other evidence from the company."

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:

- Lease agreements entered into on January 5, 1981 and January 1, 1982 between the applicant and [REDACTED] for residence at [REDACTED], Houston, Texas.
- An undated statement from [REDACTED] of Houston, Texas, who indicated that he has known the applicant since 1986. The affiant asserted that the applicant would visit his home on the weekends.
- An undated statement from [REDACTED] of Houston, Texas, who indicated the applicant resided with him at [REDACTED] from 1981 to 1983. Mr. [REDACTED] asserted, "the above apartment was lease under my name."
- An undated statement from [REDACTED] of [REDACTED] Houston, Texas, who indicated that the applicant has been residing with him as a housekeeper and babysitter since 1983. The affiant asserted, "I provided him food, clothing, boarding, medicine, etc. plus I give him extra \$100/= per month."
- An additional statement dated March 21, 2002 from [REDACTED], who attested to the applicant's Houston residences at [REDACTED] from March 1981 to 1983 and at [REDACTED] from August 1983 to 1989.
- A statement dated November 28, 1989 from [REDACTED] of Houston, Texas, who attested to the applicant's Houston residences at [REDACTED] and [REDACTED].
- An envelope from [REDACTED] of Bombay, India which included an alleged postmark of May 23, 1984 from the [REDACTED] in Houston Texas, and addressed to the applicant at [REDACTED] Houston, Texas.

The director issued a Notice of Intent to Deny dated December 18, 2003, advising the applicant that that the documentation submitted was insufficient to establish continuous residence in the United States since before January 1, -1982 through May 4, 1988. -In response, the applicant's former counsel provided copies of documents that were previously submitted along with documents to establish his residence subsequent to the period in question. Counsel asserted, "...it is impossible for my client to produce more documentation that what has already been produced. Requesting a client to produce documents establishing their presence when they had no legal status, kind of defeats the purpose and is circular in reasoning."

The statements of counsel have been considered; however, the AAO does not view the documents submitted as substantive enough to support a finding that the applicant entered and began residing in the United States before January 1, 1982 through May 4, 1988 as contradicting information has been provided. Specifically:

1. A review of the [REDACTED] and Numismatic Association's website reveals that the stamp on the envelope noted above, which featured a Smooth Indian Otter with a value of 300 hundred paise, was issued by the Indian government on July 20, 2000.¹

¹ See [http://geocities.com/\[REDACTED\]jul.htm?](http://geocities.com/[REDACTED]jul.htm?)

2. [REDACTED] indicated the applicant resided with him at [REDACTED] from 1981 to 1983, and that the lease was in his name. The lease agreements provided by the applicant, however, specifically listed the applicant's name and referred no other individual.
3. [REDACTED] attested to the applicant's Houston residence from 1981 to 1983 at [REDACTED]. The applicant, however, did not claim this residence on his Form I-687 application.

These factors tend to establish that the applicant utilized documents in a fraudulent manner in an attempt to support his claim of residence in the United States during the requisite period. By engaging in such an action, the applicant has irreparably harmed his own credibility as well as the credibility of his claim of continuous residence in the United States for requisite period.

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.