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U.S. Citizenship  
and Immigration  
Services



L2

FILE:

MSC 01 278 60158

Office: DALLAS

Date:

SEP 07 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

**PUBLIC COPY**

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, Dallas, Texas, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The 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 submits additional documentation.

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. Section 1104(c)(2)(B) of the LIFE Act; 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 Citizenship and Immigration Services (CIS) 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. 8 C.F.R. § 245a.2(d)(3)(vi)(L).

In a sworn affidavit dated December 15, 1989, the applicant claimed to have entered the United States in an unlawful status on October 12, 1981. He stated that he lived in the United States illegally until May 1, 1987 when he returned to Pakistan, where he remained until June 7, 1987. The applicant claims he then reentered the United States in a lawful status pursuant to a nonimmigrant visa on June 7, 1987. On his Form I-687, Application for Status as a Temporary Resident, which he also signed on December 15, 1989, the applicant stated that he returned to the United States pursuant to an F-1, nonimmigrant student visa, which was issued on June 4, 1987 and was valid until June 4, 1992. The record reflects that the applicant entered the United

States pursuant to an F-1 visa on June 7, 1987 to pursue a bachelor's degree, with an estimated completion date of June 1991.

According to the applicant's Form I-687 application, he was self-employed in construction from January 1982 until April 1987, and was a student from June 1987 until the date of his I-687 application on December 15, 1989.

In an attempt to establish continuous unlawful residence since before January 1, 1982 through May 4, 1988, the applicant provided the following evidence:

1. A copy of an April 3, 2003 notarized letter from [REDACTED] in which she stated that she has known the applicant since 1985 as a friend of her late husband's. She stated that the applicant was in their house "on and off" and that he stayed as a guest in the house in 1985.
2. A copy of a "Resident's Notice of Intent to Vacate" dated September 30, 1988, which seeks permission to terminate a lease dated April 1, 1988. The resident's signature block on the document is blank. Additionally, the name of the requestor has been marked out and the applicant's name written in. There is no evidence that the lease that is the subject of the notice was in the applicant's name.
3. A copy of the applicant's June to July 1987 checking account statement. The address on the statement is not one of the addresses at which the applicant claimed to have resided during the qualifying period.
4. Copies of receipts for driver's licenses issued on August 27, 1987. The receipts show three Miami addresses for the applicant during the same time frame: [REDACTED] and [REDACTED]. The applicant claimed to have lived at the latter address from June 1987 to the date of his Form I-687 application; however, he made no claim of residency at the other two addresses in any of the documentation submitted in support of his LIFE Act application.
5. On appeal, the applicant submitted copies of documentation indicating that he had visited a doctor's office in Miami, Florida on August 8, 1986.

The applicant submitted three airline boarding passes showing him as the passenger; however, while the passes indicate a month and day, they do not reflect a year. The applicant also submitted an envelope addressed to him at a post office box in Miami, Florida; however, the cancellation date of the postmark is illegible. Other documentation submitted by the applicant reflect dates that are after the qualifying period and therefore are not probative in establishing his residency and presence in the United States from prior to 1982 through May 4, 1988.

The applicant has submitted no evidence to establish his presence in the United States prior to 1982. Further, his entry into the United States on June 7, 1987 was pursuant to a lawful F-1 student visa. The applicant acknowledges that he was a student beginning in 1987, and does not allege that he violated the terms of his visa or that having done so, the U.S. government was aware of his unlawful status. While the record indicates that the applicant received wages in 1988, the first report of such wages was for a period beginning May 23, 1988.

Accordingly, it is concluded that the applicant has failed to establish continuous residence in the U.S. for the required period.

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