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U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

L2

FILE:

MSC 02 051 62426

Office: LOS ANGELES

Date: SEP 11 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. 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 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 submitted copies of previously submitted documentation and states that the Notice of Intent to Deny (NOID) was not written in plain, understandable language that would permit a person with English as a second language to submit a proper rebuttal. We note, however, that the applicant responded fully to the NOID, contesting each of the issues cited.

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(2)(c)(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).

The applicant stated on his Form I-687, Application for Status as a Temporary Resident, that he first unlawfully entered the United States in March 1981 when he crossed the border into California.

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 February 19, 1990 sworn statement from [REDACTED] who stated that he had owned a hotel and a sound studio, which he sold in 1989. Mr. [REDACTED] stated that, although "all diligent records from that long time ago were not kept, I would swear in any fashion that the person whose photo I have signed [sic] yes, indeed was a tenant of mine from about 1981 until [sic] around 1984." Mr. [REDACTED] did not state that the applicant worked for him, as the applicant claimed on his Form I-687 application. Further, Mr. [REDACTED] did not indicate the source upon which he relied to date the applicant's tenancy as 1981.
2. A copy of a July 1, 1981 lease agreement between [REDACTED] and [REDACTED] for a month-to-month tenancy beginning on August 1, 1981. We note that the applicant's signature appears as the only original writing on one copy of the document and that another copy of the document in the record does not contain his signature.
3. Copies of rental receipts for an apartment at [REDACTED] in Hollywood, California. The receipts purportedly cover periods from July to September 1981, January to March 1982 and January through March 1983. In response to the director's Notice of Intent to Deny (NOID) dated May 4, 2004, the applicant stated that he lived at the [REDACTED] apartment prior to entering a formal agreement with the [REDACTED]. He stated that he paid the rent in arrears each month and that the July receipt was for the June rent. The receipts are all signed by [REDACTED] and reflect that the remitter was "Hafiz Bablu." **Several of the receipts also appear to be altered. On June 7, 2006, pursuant to 8 C.F.R. § 103.2(b)(5), the AAO requested that the applicant submit originals of the rental receipts. However, the request for evidence, sent to the applicant at his address of record, was returned by the U.S. Postal Service as undeliverable.**
4. A March 26, 1990 sworn affidavit from [REDACTED] in which he stated that he worked with the applicant at [REDACTED] and that he has personal knowledge that the applicant lived in Los Angeles, California from May 1986 until the date of the affidavit, and at [REDACTED] in Hollywood. However, Mr. [REDACTED] did not indicate the dates that the applicant lived on [REDACTED] or the dates that he worked with the applicant.
5. A copy of a receipt from [REDACTED] in Artesia, California reflecting that it was issued to the applicant in March 1983. However, the receipt does not contain an address for the applicant and the date on the receipt appears to have been altered.
6. An October 6, 2001 letter from [REDACTED], owner of the [REDACTED] in which he stated that the applicant worked at the restaurant from April 1984 to January 1988, and that the applicant "was an excellent cook and our business grew rapidly because [of] his hard work." We note that the applicant did not state on his Form I-687 application that he worked for the [REDACTED]. In response to the director's NOID, the applicant stated that he failed to include this employment because it was a part-time position. The applicant stated that he "worked primarily on weekends and evenings as needed but I never had a set schedule." The applicant, however, submitted no documentary evidence to support his statements that he worked in this position on a part-time basis. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). The letter from Mr. [REDACTED] did not indicate the applicant's address at the time of his

employment or that the information that he provided was taken from official company records. *See* 8 C.F.R. § 245a.4(b)(4)(iv)(A).

In a second statement dated October 12, 2001, Mr. [REDACTED] stated that he has known the applicant since his arrival in the United States in 1981. However, Mr. [REDACTED] did not provide specifics about his initial acquaintance with the applicant.

7. A copy of a May 1, 1986 month-to-month lease between the applicant and [REDACTED] for an apartment at [REDACTED] in Los Angeles.
8. A copy of a February 1988 airline ticket receipt from California to Canada. The receipt lists the applicant as the passenger.
9. The applicant also submitted several photographs, which he indicated were taken in the 1981, and 1983 through 1988 in various locations in the United States. However, nothing in the photographs or associated with the photographs confirm that they were taken during the times stated by the applicant.

As discussed above, the adjudication of the applicant's claim is a measure of both the quantity and quality of the evidence submitted. *See* 8 C.F.R. § 245a.12(e). Other than the rental receipts, which are of questionable authenticity, the applicant submitted no contemporaneous evidence to support his claim. As discussed above, a request for the originals of the receipts, addressed to the applicant at his address of record, was returned as undeliverable. The applicant, therefore, failed to notify Citizenship and Immigration Services of a change in his address. The regulation at 8 C.F.R. § 103.2(b)(5) states that failure to submit a requested original document shall result in denial of the petition.

Given the absence of any competent contemporaneous documentation and the apparent alterations in the documentation, it is concluded that he has failed to establish continuous residence in the U.S. for the required period.

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.