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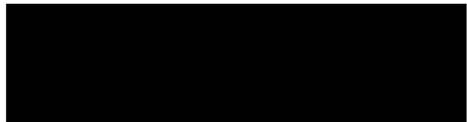
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, D.C. 20529



U.S. Citizenship
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Services

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FILE: MSC 02 142 62875 Office: LOS ANGELES Date: JAN 08 2007

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 sustained.

The district director concluded that the applicant's testimony and documents were 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 provides an explanation for the inconsistencies and submits additional documents 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 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).

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

A letter executed on September 25, 1989 from [REDACTED], vice president/general manager of [REDACTED] Corp. in Chino, California, who indicated that the applicant was employed from

January 2, 1987 to September 2, 1987 and attested to the applicant's address at [REDACTED] Ontario, California during his employment.

- A 1987 wage and tax statement from [REDACTED].
- A Form 1099G, Report of State Income Tax Refund from the California Franchise Tax Board for 1987.
- Identification cards from the San Bernardino County Soccer League for the 1986-1987 season issued on December 31, 1986 and for 1988-1989 season.
- An identification card from the San Bernardino County Soccer League for the 1987 summer tournament issued on June 18, 1987.
- A letter dated August 21, 1994 from [REDACTED] commissioner of the San Bernardino County Soccer League, N.P.O., who indicated that the applicant is been a member of its league and has played with the [REDACTED] soccer team since the 1984-1987 seasons.
- A California identification card issued on January 29, 1987, which listed the applicant's address as [REDACTED] Ontario, California.
- A letter dated June 23, 1993 from [REDACTED] of MB Printing and Distribution in Ontario, California, who attested to the applicant's employment as an independent contractor with MB Printing from November 10, 1987 through August 8, 1988.
- A receipt dated February 23, 1987 from the Chino Community Adult School Office.
- Three envelopes with indecipherable postmarks.
- An envelope postmarked April 28, 1987, which listed the applicant's address as [REDACTED] Ontario, California.
- A letter from [REDACTED] pastor at Our Lady of Guadalupe in Ontario, California, who indicated that the applicant has been a member of its parish since December 1986.
- Undated statements from acquaintances, [REDACTED] and [REDACTED], of Ontario, California, who attested to the applicant's residence in the United States since 1982.
- An affidavit notarized January 2002 from [REDACTED] of Fontana, California, who indicated that the applicant rented a room in her Ontario home at [REDACTED] from December 1981 to June 1986.
- An affidavit notarized January 15, 2002 from [REDACTED] Redlands, California, who indicated that the applicant was in his employ engaging in yard work in 1984 and 1985 for three to four hours a week.

- An undated letter from [REDACTED] of S.E.P.P. (Specialized Electrical Power Panel) in Montclair, California, who indicated that the applicant has been in his employ since November 1981. Mr. [REDACTED] asserted that the applicant's duties consist of gardening, general maintenance, small repairs, plumbing, minor auto repair, etc.

The director issued a Notice of Intent to Deny dated July 23, 2004, advising the applicant that the affidavits submitted were insufficient to establish continuous residence in the United States since before January 1, 1982 through May 4, 1988. Specifically, the affidavits from Mr. [REDACTED] and Mr. [REDACTED] were too general and, therefore, did not bear the weight as evidence. The affidavit from [REDACTED] was inconsistent and contradictory in that the applicant, on his Form I-587 application, did not claim to have resided at Ms. [REDACTED] address during the period in question. The affidavits from S.E.P.P. were contradictory and inconsistent as one affidavit attested to the applicant's employment since 1981 and other attested to the applicant's employment commencing in 1990.

On appeal, the applicant asserts that he never received the Notice of Intent to Deny until he visited the Los Angeles Office and was given a copy of said notice. The applicant, in response to the notice, asserts "due to a misunderstanding I did not include [REDACTED] address on my original application I-687 because I thought that the application was requesting my addresses for the last five years..." The applicant submits an additional letter notarized October 12, 2004 from [REDACTED] who acknowledges the issuance of the two affidavits that attested to the applicant's employment in 1981 and 1990, and asserts that this letter will serve as an explanation for his previous affidavits. Mr. [REDACTED] asserted, in part:

Let me address the first affidavit now. That one was given in 1993 and correctly stated Mr. [REDACTED] employment from 1990 to present (1993). This was when he actually began working for Specialized Electrical Power Panel. Now the latter affidavit, written in 2003, also correctly stated that he was employed since 1981 to present (2003). The confusion here, in my opinion, is that in those years he wasn't actually working for the company itself until 1990 as the affidavit states he was doing jobs on the side for me. I just happened to write it on my company letterhead and I do all my letters. I hope that with this explanation I have cleared up any discrepancies on your understanding.

The applicant also submits:

- An additional affidavit notarized October 13, 2004 from [REDACTED] who indicates that her records do verify the applicant rented a room in her Ontario home at [REDACTED] from December 1981 to June 1986. Ms. [REDACTED] asserts, "I think there might be a mistake in his application or may have omitted this/my address on his application."
- An additional affidavit notarized October 12, 2004 from [REDACTED] who indicates that he has known the applicant since childhood and attests to the applicant's Ontario residences at [REDACTED] from 1981 to 1986 and at [REDACTED] from 1986 to 1990. Mr. [REDACTED] also attests to the applicant's employment with [REDACTED] since 1981 and asserts that he has kept in touch with the applicant since his arrival in the United States.
- An additional affidavit notarized October 10, 2004 from [REDACTED] who indicates that he has known the applicant since childhood and attests to the applicant's Ontario residences at [REDACTED] from 1981 to 1986 and at [REDACTED] from 1986 to 1990. Mr. [REDACTED] also attests to

the applicant's employment with [REDACTED] since 1981 and asserts that he has kept in touch with the applicant since his arrival in the United States.

The statements of the applicant and affiants have been considered and overcome the discrepancies cited in the director's notice. In this instance, the applicant submitted evidence, including contemporaneous documents, which tends to corroborate his claim of residence in the United States during the requisite period. As stated in *Matter of E--M--*, *supra*, when something is to be established by a preponderance of evidence, the applicant only has to establish that the asserted claim is probably true. That decision also points out that, under the preponderance of evidence standard, an application may be granted even though some doubt remains regarding the evidence. The documents that have been furnished may be accorded substantial evidentiary weight and are sufficient to meet the applicant's burden of proof of residence in the United States for the requisite period.

The documentation provided by the applicant supports by a preponderance of the evidence that the applicant satisfies the statutory and regulatory criteria of entry into the United States before January 1, 1982, as well as continuous unlawful residence in the country during the ensuing time frame of January 1, 1982 through May 4, 1988, as required for eligibility for legalization under section 1104(c)(2)(B)(i) of the LIFE Act.

Accordingly, the applicant's appeal will be sustained. The district director shall continue the adjudication of the application for permanent resident status.

ORDER: The appeal is sustained.