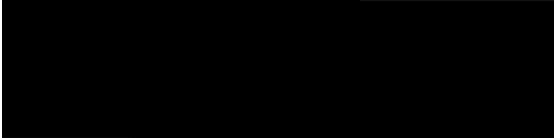


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FILE: [REDACTED]  
MSC 02 025 62836

Office: LOS ANGELES

Date: JAN 31 2007

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.

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 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, counsel states that the applicant has submitted sufficient evidence to establish his eligibility under the LIFE Act. Counsel submits a brief and additional 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. 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).

On a form to determine class membership, the applicant stated that he first arrived in the United States in March 1981, when he was 13 years of age. The applicant stated on his Form I-687, Application for Status as a Temporary Resident, that he did not begin working until October 1985, when he became a laborer for Foundation Contractor. The applicant also stated that his only absence from the United States was in September 1987, when he traveled to Mexico upon the death of a relative.

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 September 15, 1990 affidavit from [REDACTED] in which he stated that, to his personal knowledge, the applicant had resided in the United States since June 1981, and that the applicant was a good friend. Mr. [REDACTED] did not give the source of his knowledge of the applicant's entry into the United States and provided no information regarding his initial acquaintance with the applicant.
2. A September 19, 1990 affidavit from [REDACTED], the applicant's uncle, in which he stated that he has known the applicant since 1981 when the applicant first arrived in the United States, and that he and his wife supported the applicant until he started to work and "went out on his own." Mr. [REDACTED] repeated this information in a February 24, 2001 affidavit.
3. A February 24, 2001 affidavit from [REDACTED], in which she stated that the applicant lived with her at her residence when he arrived in the United States in 1981 and continued to live there until "he was able to get on his own support."
4. Copies of rental receipts dated November 1, 1981; March 1, 1982; and May 1, 1983. These receipts are signed by [REDACTED] the applicant's aunt, and indicate that he paid \$50 for rent. The applicant initially claimed on his Form I-687 application that he did not work when he first arrived in the United States because he was a minor. However, in an October 11, 2001 sworn statement, the applicant claimed that he "helped my uncle at the yard and did things that I could do, with the money I got paid by my uncle, I paid rent and food to my aunt." The applicant's aunt confirmed this statement in an October 11, 2001 sworn statement. Even if one accepted these statements as true, however, the fact that these alleged payments were documented by formal receipts is so beyond the norm that it raises questions as to the authenticity of the documents. Further, we note that in their initial statements, neither the applicant's aunt or uncle, indicated that the applicant contributed financially to his support. 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. Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988).
5. An August 11, 1990 affidavit from [REDACTED] in which he states that he has known the applicant since 1981 "by his aunt."
6. An August 17, 1990 affidavit from [REDACTED] in which she states that, to her personal knowledge, the applicant has resided in the United States since July 1981. Ms. [REDACTED] does not explain the source of her knowledge of the applicant's presence and residency in the United States during the qualifying period.
7. A copy of a May 31, 1984 warranty receipt for an alternator, showing the applicant as the purchaser.
8. A copy of a November 28, 1984 U.S. Postal Service receipt for registered mail, showing the applicant as the purchaser.
9. A July 26, 2001 affidavit from [REDACTED] in which he stated that he met the applicant in 1985 through the applicant's brother, and they have worked together in the construction field since that time.

10. A February 24, 2001 affidavit from [REDACTED] in which he stated that he has known the applicant since about 1986, and that they have worked together. Mr. [REDACTED] did not indicate where he and the applicant worked together or the circumstances surrounding their initial acquaintance.
11. An October 10, 2001 affidavit from [REDACTED] in which he stated that he has known the applicant since 1986 and they have been working in construction since that time.
12. A copy of a September 23, 1986 receipt from [REDACTED] listing the applicant as the customer and signed by the applicant.
13. A July 26, 2001 affidavit from [REDACTED] in which he stated that he has known the applicant since 1987, and that they have worked together at different construction sites.
14. A September 20, 1990 affidavit from [REDACTED] in which she “confirms” that she took the applicant to a Tijuana, Mexico border on September 5, 1987, where he caught a bus to visit his sick grandmother in Mexico, and that he returned to Los Angeles on September 20, 1987, where she gave him room and board.
15. An August 1990 affidavit from [REDACTED], which indicates that the applicant worked at the company from January 1985 until August 1990. The signature on the affidavit is illegible, and there is no indication as to the title or status of the person attesting to the information in the affidavit. Therefore, it is not probative in this proceeding.

The applicant also submitted several receipts from 1981 to 1984. These receipts are suspect in that the applicant’s name is written in a different color of ink than other writings on the receipts and/or the applicant’s name appears on cash or carbon copy receipts. For example, an October 2, 1981 from Callahan Hardware Company indicates that it was for a cash purchase, although the applicant’s name also appears in the name block, and a February 7, 1984 carbon copy receipt from Alameda Truck Terminal in Los Angeles has “cash” written in the name block but also contains the applicant’s name in a different color of ink. It cannot be determined from these documents when the applicant’s name was entered. Therefore, they are of no probative value in this proceeding. *See generally Matter of Ho*, 19 I&N Dec. at 591.

On appeal, the applicant submitted the following documentation:

1. September 7 and 9, 2004 sworn statements from [REDACTED] and [REDACTED] and [REDACTED] who identifies herself as the applicant’s aunt and Mr. [REDACTED] as her brother-in-law. Each attests in the same words and language that the applicant arrived in the United States “about 1981” and lived “with me.” They also state that the applicant started working with Mr. [REDACTED] in his landscaping and gardening service, and from his pay, he paid rent and part of the utility bills. No mention was made prior to appeal that the applicant contributed to the payment of utility bills.
2. A September 4, 2004 affidavit from [REDACTED], in which he stated that he has known the applicant since 1981, and they have been working together in construction since that time. This statement conflicts with other statements in the record that indicated the applicant started working in construction in 1985. Mr. [REDACTED] did not state where he worked with the applicant.

3. A September 13, 2004 affidavit from [REDACTED] in which “confirmed” that he has known the applicant since about 1984, and that they met while playing soccer.
4. A September 8, 2004 sworn statement from [REDACTED] in which he stated that he has known the applicant since about 1985, that they met through friends.
5. A September 8, 2004 affidavit from [REDACTED] in which he confirms that he has known the applicant since about 1985, when they met through friends.
6. An affidavit from [REDACTED] in which he states that he has had “business dealing[s]” with the applicant since about 1985. Mr. [REDACTED] did not explain the nature of the “business dealings” that he had with a 17-year old, although he stated that in 1987, the applicant performed “some major repairs” to the property owned by the affiant’s business.
7. A September 13, 2004 affidavit from [REDACTED] who reaffirmed his earlier statement that he met the applicant “about” 1987.

The applicant has submitted 16 affidavits and third-party statements attesting to his continuous residence in the U.S. during the relevant period. Affidavits in certain cases can effectively meet the preponderance of evidence standard. However, contemporaneous documentation submitted by the applicant to establish his presence in the United States prior to 1984 is suspect and casts doubt on the statements provided by only relatives and friends. The documentation lacks sufficient credibility to establish that the applicant was more likely than not continuously present in the United States from prior to 1982 to May 4, 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.