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U.S. Citizenship  
and Immigration  
Services

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FILE:

MSC 03 141 61630

Office: CINCINNATI

Date: MAY 23 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:

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, Cleveland (Cincinnati), Ohio, 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 asserts that the director did not properly consider the evidence submitted by the applicant in support of his application. Counsel submits a brief 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 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 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 an affidavit to determine class membership, which the applicant signed under penalty of perjury on November 14, 1991, the applicant stated that he first arrived in the United States in December 1981. On his Form I-687, Application for Status as a Temporary Resident, which he also signed under penalty of perjury on November 14, 1991, the applicant stated that he lived with friends in New York from January to September 1982, but did not specify an address. He stated that he lived at the following addresses in New York during the remainder of the qualifying period: [REDACTED], in Astoria from October 1982 to July 1985; [REDACTED], in Astoria from July 1985 to March 1987; and at [REDACTED]

██████████ in Jamaica from March 1987 to November 1990. The applicant also stated that he worked at ██████████ from December 1982 to October 1984; ██████████ from October 1984 to May 1987; and at ██████████ Jamaica from May 1987 to November 1990.

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

1. An undated statement from ██████████ in which he certified that he "hosted" the applicant during the summer of 1981, when ██████████ lived in New Orleans. In an undated statement, the applicant stated that he visited his cousin in New Orleans at "the end[] of 1981." We note that the applicant did not claim to have entered the United States until December of 1981. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the applicant submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).
2. An undated notarized letter from ██████████ in which an individual (the name is illegible) who claims to be the manager, states that the applicant was employed with the company from December 1982 to October 1984, and that he was paid in cash. The letter does not comply with the provisions of 8 C.F.R. § 245a.2(d)(3)(i) in that it does not state whether or not the information was taken from company records and does not indicate the applicant's address at the time of his employment.
3. A lease that purports to be an agreement between Fares Abdelghani and TK Management for lease of premises at ██████████ in Long Island, New York for the period October 1, 1982 to September 30, 1985. The lease does not list the tenant's name in the tenant block on the front of the lease; however the applicant's name appears at the end of the lease, apparently as the lessee. However, the copyright date of the lease is December 1987; therefore, it could not have used to contemporaneously memorialize an agreement that was supposedly effective more than five years earlier. Additionally, the notary's signature is dated July 3, 1992. On appeal, counsel asserts: "The officer misinterpreted the meaning of the notarization of the document. The notarization simply authenticated the document. The fact that they were notarized after the period the appellant said he resided at those places does not diminish their authenticity."

Counsel's argument is specious. The notary does not provide an acknowledgement that the signers of the document attest to the authenticity of their signatures, nor does she state that the document is a true copy of the original. The notary does not qualify her signature in any way. Additionally, counsel submits no authority that would permit a notary in the State of New York to "authenticate" a document in any manner.

4. A lease for premises located at ██████████ in Jamaica, New York, purportedly for the period March 3, 1987 to November 1990. The document suffers from the same deficiencies as the lease discussed immediately above. Doubt cast on any aspect of the applicant's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa application. *Matter of Ho*, 19 I&N Dec. at 591.
5. An undated notarized letter from Grocery & Deli, certifying that the applicant worked for the deli from May 1987 to November 1990. The signature of the signer of the document is illegible and

the individual's position with the organization is not identified. Further, the letter does not indicate the source of the information regarding the applicant's employment or the applicant's address at the time of his employment. 8 C.F.R. § 245a.2(d)(3)(i).

6. An undated letter from Centro Educativo Hispano signed by [REDACTED], stating that the applicant attended an English as a second language class at the organization during the 1987 spring term.

The record contains a copy of the applicant's national identification card, which shows an effective date of April 30, 1985 to April 29, 1995. The applicant's passport, issued in August 1987, reflects that the American Embassy in Casablanca issued the applicant a B2 nonimmigrant visitor's visa on August 11, 1988 that was valid for multiple entries in the United States until August 1989. The passport reflects that the applicant entered the United States pursuant to that visa on August 20, 1988.

The director questioned the integrity and credibility of the employment letters submitted on the applicant's behalf because it "appears that from the fact the employers hired [the applicant] without proper documentation, they were aware [that the applicant was] an illegal alien." We withdraw this statement by the director, as speculation of the employers' knowledge and the hiring of the alien without proper documentation does not, without more, bring into question the employers' integrity or credibility. Nonetheless, the letters are deficient in that they do not contain the information required by 8 C.F.R. § 245a.2(d)(3)(i). Further, neither letter clearly identifies the writer or state the source of the information relied upon in providing the information about the applicant's employment dates. The applicant submitted no contemporaneous documentation to establish that he was present and continuously living in the United States from prior to January 1, 1982 to May 4, 1988.

Given this absence of contemporaneous documentation, the conflicting information regarding the applicant's initial entry into the United States, and the questionable leases, 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.