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U.S. Department of Homeland Security
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Washington, DC 20529



**U.S. Citizenship
and Immigration
Services**

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FILE:

MSC-02-124-61391

Office: NEW YORK

Date:

SEP 26 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. The file has been returned to the office that originally decided your case. If your appeal was sustained, or if your case was remanded for further action, you will be contacted. If your appeal was dismissed, you no longer have a case pending before this office, and you are not entitled to file a motion to reopen or reconsider your case.

A handwritten signature in black ink, appearing to read "R. Wiemann".

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, New York, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director determined the applicant failed to meet the burden of proof that he qualifies for Adjustment of Status under the LIFE Act. Specifically, the documentation the applicant submitted was insufficient to overcome the grounds for denial described in the Notice of Intent to Deny (NOID). As a result, the director denied the application.

On appeal, the applicant suggested the director did not give adequate weight to the evidence he submitted. In addition, the applicant suggested that the director erroneously insisted that the applicant provide primary evidence in support of his application. The applicant also suggested that all the evidence in the record be reviewed.

An applicant for permanent resident status under Section 1104 of the LIFE Act 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. See Section 1104(c)(2)(B) of the LIFE Act and 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 under the provisions of Section 245A of the Act, and is otherwise eligible for adjustment of status. The inference to be drawn from the documentation provided shall depend on the extent of the documentation and its credibility and amenability to verification. 8 C.F.R. § 245a.12(e).

Although the regulation at 8 C.F.R. § 245a.2(d)(3) provides an illustrative list of contemporaneous documents that an applicant may submit in support of his or her claim of continuous residence in the United States in an unlawful status since prior to January 1, 1982, the submission of any other relevant document is permitted pursuant to 8 C.F.R. § 245a.2(d)(3)(vi)(L).

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.

The issue in this proceeding is whether the applicant has furnished sufficient credible evidence to demonstrate that he resided in the United States from prior to January 1, 1982 through May 4, 1988. Here, the submitted evidence is not relevant, probative, and credible.

The record shows that the applicant submitted a Form I-485 Application to Register Permanent Resident or Adjust Status, to Citizenship and Immigration Services (CIS) on February 1, 2002. At part #3 where applicants were asked to list present and past membership in or affiliation with every political organization, association, fund, foundation, party, club, society or similar group, the applicant did not list any organizations. With the Form I-485 application the applicant submitted a Form G-325A biographic information. Where applicants were asked to list their residences for the last five years, the applicant listed the following address during the requisite period: [REDACTED] from June 1981 to September 1991. Where applicants were asked to list their last addresses outside the United States of more than one year, the applicant did not list an address. Where applicants were asked to list their last occupations abroad, the applicant did not list an occupation. With the I-485 application, the applicant also included copies of documents related to his initial I-687 application for temporary resident status.

The record includes a Form I-687 Application for Status as a Temporary Resident signed by the applicant on May 6, 1991. At part #34 where applicants were asked to list all affiliations or associations with clubs, organizations, churches, unions, businesses, etc., the applicant listed [REDACTED] from December 1983 to present. This information is found to be inconsistent with the information provided on Form I-485. Specifically, the applicant failed to list this organization when asked for memberships or affiliations at part #3 of the Form I-485.

With his Form I-687 the applicant included a letter from [REDACTED] signed by [REDACTED] Public Information. This letter confirms the applicant's membership in the "Muslim Community" since December 1983. The letter explains the applicant attends Friday prayer service and other prayer services at the [REDACTED]. Again, this letter is found to be inconsistent with Form I-485 because the applicant failed to mention his association with the [REDACTED] on his Form I-485 application. In addition, this letter does not conform to regulatory standards for attestations by churches, unions or other organizations. Specifically, the letter does not state the address where the applicant resided during the membership period, establish how the author knows the applicant, and establish the origin of the information being attested to. 8 C.F.R. § 245a.2(d)(v).

The applicant included a form affidavit from I. [REDACTED] dated May 9, 1991. In this affidavit, [REDACTED] stated that the applicant resided at [REDACTED] from June 1981 to present. Where the form asks the affiant to provide information regarding how he is able to determine the date of the beginning of his acquaintance with the applicant in the United

States and to list the longest period in which he has not seen the applicant, the affiant provided no information. As a result, this affidavit is found to be lacking in detail.

The applicant provided an affidavit from [REDACTED] dated June 10, 1991. [REDACTED] explained that he resides at [REDACTED] and that the applicant has lived with him at this address since June 1981 to present. This information is found to be inconsistent with the information provided by the applicant on Form G-325A and on Form I-687. Specifically, the applicant listed his address from June 1981 to September 1991 as [REDACTED] instead of as [REDACTED]. This inconsistency calls into question whether [REDACTED] can actually confirm the applicant's residence during the requisite period.

The applicant also included a form affidavit from [REDACTED] dated May 9, 1991. In this affidavit, [REDACTED] stated that the applicant resided at [REDACTED] from June 1981 to present. Where the form asks the affiant to provide information regarding how he is able to determine the date of the beginning of his acquaintance with the applicant in the United States and to list the longest period in which he has not seen the applicant, the affiant provided no information. As a result, this affidavit is found to be lacking in detail.

The applicant provided a letter from [REDACTED] signed by [REDACTED] and dated January 23, 1991. This letter confirms the applicant's employment with [REDACTED] from July 1981 to the present time as a subcontractor. This letter is found not to conform to regulatory standards for letters from employers. Specifically, this letter does not include the applicant's address at the time of employment, his duties within the company, whether the information was taken from official company records, where the records are located, and whether CIS may have access to the records. 8 C.F.R. § 245a.2(d)(i).

The applicant also provided a receipt from [REDACTED] Driving School dated March 16, 1986. This receipt does not list the applicant's address. Therefore, it does not confirm the applicant resided in the United States during the requisite period. The applicant also provided multiple envelopes that contain illegible cancellation date stamps or stamps with dates falling outside the requisite period.

The record indicates the applicant completed an interview with an immigration officer on February 19, 2004. According to the record of the interview, the applicant stated he left the [REDACTED] in June 1981. He stayed for three weeks at [REDACTED]. From July 1981 to July 1991 the applicant lived with four to five people at [REDACTED].

In response to the Notice of Intent to Deny (NOID) issued on February 20, 2004, the applicant submitted multiple additional documents. The applicant provided a declaration from [REDACTED] that confirms [REDACTED] has known the applicant since 1986. This declaration does not provide any addresses for the applicant during the requisite period. As a result, it is found to be lacking in detail. In addition, although not required, [REDACTED] did not attach documentation of his identity or presence in the United States during the requisite period.

The applicant provided a letter from [REDACTED] that explains he has known the applicant since 1985. This letter fails to confirm the applicant resided in the United States during the requisite period.

The applicant submitted a letter from [REDACTED] that confirms the declarant has known the applicant since 1987 and gathered for prayer with him every week since that time. This letter fails to list the applicant's addresses during the requisite period. In addition, the letter only confirms the applicant resided in the United States since 1987.

The applicant provided a letter from [REDACTED] stating that the applicant shared an apartment at [REDACTED] with the declarant in 1981, with other roommates. [REDACTED] listed the names of the other roommates as follows: [REDACTED] and the applicant. This letter appears to be inconsistent with the letter from [REDACTED] that indicates [REDACTED] also lived with the applicant in 1981. This letter also fails to confirm the applicant resided in the United States during the requisite period.

The applicant provided a letter from Latin #17 Meat and Provisions Corp., Store No. 17 Bronx Terminal Market, signed by [REDACTED]. This letter states that the applicant has been a customer of the market since 1981 and shopped there every week with his family. Although not required, the letter is not accompanied by any documentation of [REDACTED] identity or presence in the United States during the requisite period. This letter is found to be insufficient to overcome the inconsistencies and lack of detail in the other evidence the applicant provided.

In denying the application the director explained applicant failed to meet the burden of proof that he qualifies for Adjustment of Status under the LIFE Act. Specifically, the documentation the applicant submitted was insufficient to overcome the grounds for denial described in the NOID.

On appeal, the applicant suggested the director has not given adequate weight to the evidence he submitted. In addition, the applicant suggested that the director erroneously insisted that the applicant provide primary evidence in support of his application. The applicant also suggested that all the evidence in the record be reviewed. The applicant also submitted a new declaration from Mr. [REDACTED] in which the declarant stated that he has known the applicant since 1981. The declarant explained he shared an apartment with the applicant at the time. This declaration fails to confirm the applicant resided in the United States during the requisite period.

In summary, the applicant has not provided any contemporaneous evidence of residence in the United States relating to the 1981-88 period, and has submitted affidavits, letters, and declarations that lack sufficient detail, fail to conform to regulatory standards, or conflict with the applicant's statements. Specifically, the letter from [REDACTED] is inconsistent with Form I-485 and fails to conform to regulatory standards. The affidavits from [REDACTED] and [REDACTED] and the letter from [REDACTED] lack sufficient detail. The affidavit from [REDACTED] conflicts with Form G-325A and Form I-687. The letter from [REDACTED] does not conform to regulatory standards. The letter from [REDACTED] and the letters from [REDACTED] fail to confirm the applicant resided in the United States during the requisite period. The letter from [REDACTED] only confirms the applicant resided in the United States since 1987. The letter from [REDACTED] is not

accompanied by any documentation of [REDACTED]'s identity or presence in the United States during the requisite period and is found to be insufficient to overcome the inconsistencies and lack of detail in the other evidence provided by the applicant.

The absence of sufficiently detailed and consistent supporting documentation to corroborate the applicant's claim of continuous residence for the entire requisite period seriously detracts from the credibility of this claim. Pursuant to 8 C.F.R. § 245a.2(d)(5), the inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. Given the contradictory statements contained in the applicant's I-687 application and supporting affidavits, and the applicant's reliance upon documents with minimal probative value, it is concluded that he has failed to establish continuous residence in an unlawful status in the United States from prior to January 1, 1982 through the date he attempted to file a Form I-687 application as required under both 8 C.F.R. § 245a.2(d)(5) and *Matter of E- M--*, *supra*. The applicant is, therefore, ineligible for temporary resident status under section 245A of the Act on this basis.

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