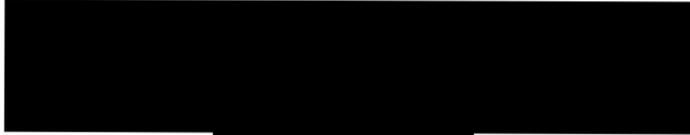


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**U.S. Citizenship  
and Immigration  
Services**

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L-2

FILE: [REDACTED] MSC 03 163 60831

Office: DALLAS

Date: APR 29 2008

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. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits [or Records] Center. 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. If your appeal was sustained or remanded for further action, you will be contacted.

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

The district director denied the application because the applicant failed to demonstrate that he entered the United States before January 1, 1982, and resided in a continuous unlawful status through May 4, 1988.

On appeal, the applicant submits a brief statement.

Section 1104(c)(2)(B) of the LIFE Act states:

(i) In General – The alien must establish that the alien entered the United States before January 1, 1982, and that he or she has resided continuously in the United States in an unlawful status since such date and through May 4, 1988. In determining whether an alien maintained continuous unlawful residence in the United States for purposes of this subparagraph, the regulations prescribed by the Attorney General under section 245A(g) of the Immigration and Nationality Act (INA) that were most recently in effect before the date of the enactment of this Act shall apply.

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 states 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 regulations at 8 C.F.R. § 245a.2(d)(3) provide an illustrative list of contemporaneous documents that an applicant may submit. While affidavits “may” be accepted (as “other relevant documentation”) [See 8 C.F.R. § 245a.2(d)(3)(vi)(L)] in support of the applicant’s claim, the regulations do not suggest that such evidence alone is necessarily sufficient to establish the applicant’s unlawful continuous residence during the requisite time period.

The regulation at 8 C.F.R. § 245a.2(d)(3)(i) states that letters from employers attesting to an applicant’s employment must: provide the applicant’s address at the time of employment; identify the exact period of employment; show periods of layoff; state the applicant’s duties; declare whether the information was taken from company records; and identify the location of such company records and state whether such records are accessible or in the alternative state the reason why such records are unavailable.

In or about March 1991, the applicant applied for class membership in a legalization class-action lawsuit and submitted a Form I-687, Application for Status as a Temporary Resident. On March 12, 2003, the applicant filed a Form I-485, Application to Register Permanent Resident or Adjust Status, under section 1104 of the LIFE Act. On September 18, 2003, the applicant was interviewed in connection with his I-485 application.

In a Notice of Intent to Deny (NOID), dated August 6, 2005, the district director determined that the applicant had failed to submit credible and verifiable evidence demonstrating his continuous unlawful residence in the United States from prior to January 1, 1982, through May 4, 1988. The director granted the applicant 30 days to submit additional evidence. In response, the applicant submitted a letter attempting to explain discrepancies in the evidence he had previously provided, and additional affidavits - one from a co-worker and one from an employer.

In a Notice of Decision (NOD, dated November 19, 2005, the district director denied the application based on the reasons stated in the NOID. The applicant filed a timely appeal from that decision on December 12, 2005. On appeal, the applicant states that he has already submitted all possible evidence in support of his application because he was only 14 years of age in 1981 and couldn’t have any legal documents since he was under age.

The issue in this proceeding is whether the applicant has furnished sufficient credible evidence to demonstrate that he continuously resided in the United States in an unlawful status before January 1, 1982 through May 4, 1988.

A review of the record reflects that the applicant has provided sufficient documentation to establish his unlawful presence in the United States since August 1984. However, there is insufficient evidence to establish that he continuously resided in the United States in an unlawful status before January 1, 1982, through July 1984. With regard to this time period, the applicant has only provided the following documentation:

- (1) Form-letter affidavits, dated March 1991, from three acquaintances in Garland, Texas, [REDACTED], and [REDACTED], stating that they had known the applicant since October 1981 because they were co-workers at North Star Services, formerly Service Master Quality Service. While not required, the affidavits are not accompanied by proof of the affiants' identification or any evidence that they resided in Garland, Texas for the relevant period, and otherwise lack details that would lend credibility the affiants' relationships with the applicant. As such, they can be afforded minimal weight as evidence of the applicant's residence and presence in the United States for the requisite period.
- (2) Affidavits from his brother and former sister-in-law. The affidavit, dated March 12, 1991, from his brother, [REDACTED], states that the applicant had lived with him at various addresses in Garland, Texas, since December 1980, and that he had supported the applicant from December 1980 until October 1981 because he was not of legal age to work. The affidavit from his former sister-in-law, [REDACTED], states that the applicant resided with his brother at various addresses in Garland, Texas, since 1980. Again, while not required, these affidavits are not accompanied by proof of the affiants' identification or any evidence that they resided in Garland, Texas for the relevant period.
- (3) A letter dated March 12, 1991 from [REDACTED], owner of North Star Services, Plano, Texas, stating that the applicant had been employed since October 1982 (not since October 1981 as the above-referenced affiants had stated). Although the letter from [REDACTED] is on company letterhead stationery, it is not notarized and [REDACTED] fails to state whether the information provided was taken from company records, identify the location of such company records, state whether such records are accessible or, in the alternative, state the reason why such records are unavailable, as required under 8 C.F.R. § 245a.2(d)(3)(i).
- (4) Letters from [REDACTED], dated March 8, 1991, and October 8, 2003, stating that the applicant was employed by him as a yardman and cleaner from October 1981 through September 1982. The letters are not on company letterhead stationery, do not provide the applicant's address at the time of his employment and also fail to state whether the information provided was taken from company records, identify the location of such company records, state whether such records are accessible or, in the alternative, state the reason why such records are unavailable. The district director noted that an attempt was made to contact [REDACTED] on July 22, 2005; however, the call was never returned.

Although the applicant has submitted several affidavits in support of his application, he has not provided sufficient contemporaneous evidence of residence in the United States during the duration of the requisite period. As stated previously, the evidence must be evaluated not by the quantity of evidence alone but by its quality. Although not required, none of the affidavits included any

supporting documentation of the affiants' identities or presence in the United States. The absence of sufficiently detailed documentation to corroborate the applicant's claim of continuous residence for the entire requisite period seriously detracts from the credibility of his 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 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 May 4, 1988.

It is concluded that the applicant has 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.