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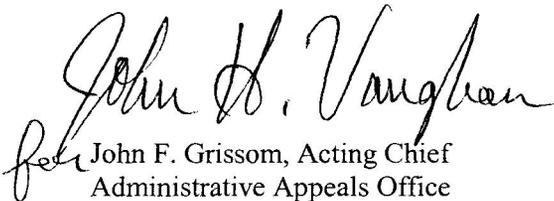
IN RE: Applicant:

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 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.

  
John F. Grissom, Acting Chief  
Administrative Appeals Office

**DISCUSSION:** The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the director in New York City. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The director denied the application because the applicant failed to establish that he entered the United States before January 1, 1982 and resided continuously in the country from before January 1, 1982 through May 4, 1988.

On appeal the applicant asserts that he submitted sufficient documentation to establish that he entered the United States prior to January 1, 1982 and resided continuously in the country in an unlawful status through May 4, 1988.

To be eligible for adjustment to permanent resident status under the LIFE Act applicants must establish their continuous unlawful residence in the United States from before January 1, 1982 through May 4, 1988, as well as their continuous physical presence in the United States from November 6, 1986 through May 4, 1988. See section 1104(c)(2)(B)(i) and (C)(i) of the LIFE Act, 8 U.S.C. § 245A(a)(2)(A) and (3)(A).

“Continuous unlawful residence” is defined at 8 C.F.R. § 245a.15(c)(1), as follows: “An alien shall be regarded as having resided continuously in the United States if *no single absence* from the United States has *exceeded forty-five (45) days*, and the aggregate of all absences has not exceeded one hundred and eighty (180) days between January 1, 1982, and May 4, 1988, unless the alien can establish that due to *emergent reasons*, his or her return to the United States could not be accomplished within the time period allowed.” (Emphases added.)

“Continuous physical presence” is described in section 1104(c)(2)(C)(i)(I) of the LIFE Act, 8 U.S.C. § 245A(a)(3)(B), and 8 C.F.R. § 245a.16(b), in the following terms: “An alien shall not be considered to have failed to maintain continuous physical presence in the United States by virtue of *brief, casual, and innocent absences* from the United States.” (Emphasis added.) The regulation further explains that “[b]rief, casual, and innocent absence(s) as used in this paragraph means *temporary, occasional trips abroad* as long as the purpose of the absence from the United States was consistent with the policies reflected in the immigration laws of the United States.” (Emphasis added.) 8 C.F.R. § 245a.16(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 its amenability to verification. See 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).

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.

The applicant, a native of India who claims to have resided in the United States since April 1981, filed his Form I-485, Application to Register Permanent Resident or Adjust Status, under section 1104 of the LIFE Act on November 19, 2001.

In a Notice of Intent to Deny (NOID) dated August 25, 2007, the director indicated that the applicant had not submitted credible evidence to establish that he entered the United States before January 1, 1982, and maintained continuous residence in the country through May 4, 1988. The applicant was granted 30 days to provide additional evidence.

The applicant filed a timely response to the NOID. In his response the applicant submitted a personal affidavit reasserting that he entered the United States in April 1981 and resided continuously in an unlawful status from then through May 4, 1988. The applicant also submitted copies of other documentation already in the record.

On September 30, 2007, the director issued a Notice of Decision denying the application. The director indicated that the documentation provided in response to the NOID was lacking in substance and credibility and failed to establish that the applicant entered the United States before January 1, 1982 and resided continuously in the country in an unlawful status through May 4, 1988.

On appeal the applicant asserts that the documentation of record is sufficient to establish that he entered the United States before January 1, 1982 and resided continuously in the country through the requisite period required for adjustment of status under the LIFE Act. The applicant submits some photographs assertedly taken in New York during the 1980s. The applicant asserts that a copy of his passport issued at the Consulate of Pakistan in New York City on April 30, 1987, resubmitted on appeal, is evidence that he resided continuously in New York during the statutory period up till May 4, 1988.

The documentation submitted by the applicant in support of his claim that he arrived in the United States before January 1, 1982 and resided continuously in an unlawful status during the requisite period for LIFE Legalization consists of the following:

- A copy of the applicant's expired Pakistani Passport indicating an issue date of April 30, 1987, at the Consulate of Pakistan in New York City.
- A letter from Salem Travel in Long Island City, New York, in 1992, and a letter from Egypt Air, New York, in 1993, stating that the applicant purchased a one-way airline ticket on Egypt Air from New York via Cairo to Karachi on May 2, 1987.
- A notarized letter from [REDACTED] in Astoria, New York, dated May 1, 1990, stating that the applicant was at his office on June 25, 1981 and February 14, 1985 for "URIS" and had not been seen since then.
- A copy of a letter from [REDACTED], Trustee of Masjid Alfalah in Corona, New York, dated April 27, 1990, stating that the applicant had been visiting the mosque frequently for the purpose of daily and Friday congregational prayers.

A notarized letter from [REDACTED], Executrix of the Ruth Cohen Estate, dated April 11, 1992, stating that the applicant had been a resident of the premises for more than ten years before vacating his apartment in 1991.

- Nine Photographs of the applicant taken at various locations with no official date stamp or other features to show when and where they were taken.
- Four notarized letters and affidavits from acquaintances, dated in 1990, 1991, and 2001, attesting that they have knowledge that the applicant had been residing in the United States since 1981.

The AAO has reviewed each document in its entirety to determine the applicant's eligibility; however, the AAO will not quote each witness statement in this decision.

The AAO agrees with the applicant that his Pakistani passport, which was issued to him in New York City on April 30, 1987, is credible evidence that he was physically present in the United States at that time. It does not establish that he was a continuous resident of the United States in 1987, however, much less over the entire period back to 1981.

The letter from the Trustee of Masjid Alfalah Mosque in Corona, New York, does not comport with the regulatory requirements of 8 C.F.R. § 245a.2(d)(3)(v), which specifies that attestations by religious and related organizations (A) identify the applicant by name, (B) be signed by an official (whose title is shown), (C) show inclusive dates of membership, (D) state the address where the applicant resided during the membership period, (E) include the organization seal impressed on the letter or the letterhead of the organization, (F) establish how the author knows the applicant, and (G) establish the origin of the information about the applicant. The letter from ██████████, dated April 27, 1990, vaguely stated that the applicant has been visiting the mosque frequently for the purpose of daily and Friday congregational prayers, but did not indicate whether the applicant was a member of the mosque and when he became a member. The letter did not state where the applicant lived at any point in time during the 1980s, did not indicate how and when ██████████ met the applicant, and did not state whether his information about the applicant was based on ██████████'s personal knowledge, the mosque's records, or hearsay. Since the letter did not comply with sub-parts (C), (D), (F), and (G) of 8 C.F.R. § 245a.2(d)(3)(v), the AAO concludes that the letter has little probative value. It is not persuasive evidence of the applicant's continuous residence in the United States from before January 1, 1982 through May 4, 1988.

The notarized letter from ██████████ indicating that the applicant was at his office on June 25, 1981 and February 14, 1985, is short on details. The applicant claimed in his response to the director's NOID that he visited of ██████████ from the period June 25, 1981 till February 14, 1985. However, ██████████ letter indicated that the applicant was seen at his office on June 25, 1981 and on February 14, 1985, and was "not seen after this date," indicating just two visits as opposed to a continuous relationship over a four year period as implied by the applicant. Neither the applicant nor ██████████ submitted any medical records confirming the applicant's visits in June 1981 and February 1985. In view of these substantive shortcomings, the letter from ██████████ has limited probative value. It is not persuasive evidence of the applicant's continuous residence in the United States from before January 1, 1982 through May 4, 1988.

The photographs of the applicant taken at various locations do not bear official date stamps or other indicators as to when they were taken. The AAO notes that there are written notations on the back of each photo of a year, presumably indicating when the photos were taken. The years are inconsistent, however, which casts their veracity in doubt. For example, two photos show the applicant in identical clothing and hairstyle, which appears to show they were taken the same day. On the back of the photos, however, one is noted "5-9-1987" and the other is noted "1982" – five years apart. Six other photos also appear to have been taken on the same day, since the applicant's clothing and hairstyle are once again identical. But four of the photos are noted on the back as "1984" and the other two appear to have originally been noted "1989" and then altered to read "1982."

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 without competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Doubt cast on any aspect of the applicant's evidence also reflects on the reliability of other evidence in the record. *See id.* The applicant has provided no explanation for the inconsistent years noted on the backs of the photographs. Thus the photographs have little probative value. They are not persuasive evidence of the applicant's continuous unlawful residence in the United States from before January 1, 1982 through May 4, 1988.

The notarized letters and affidavits in the record – dated in 1990, 1991, and 2001 – from individuals who claim to have rented an apartment to, resided with, or otherwise known the applicant during the 1980s have minimalist or fill-in-the-blank formats with little personal input by the authors. Considering the length of time they claim to have known the applicant, the authors provide remarkably little information about his life in the United States, such as where he worked, and their interaction with him over the years. Nor are the affidavits and letters accompanied by any documentary evidence – such as photographs, letters, and the like – of the personal relationship between the authors and the applicant in the United States during the 1980s. In view of these substantive shortcomings, the affidavits and letters have little probative value. They are not persuasive evidence of the applicant's continuous unlawful residence in the United States from before January 1, 1982 through May 4, 1988.

Based on the foregoing analysis of the evidence, the AAO concludes that the applicant has failed to establish that he entered the United States before January 1, 1982 and resided continuously in the United States in an unlawful status from before January 1, 1982 through May 4, 1988, as required under section 1104(c)(2)(B)(i) of the LIFE Act, 8 U.S.C. § 245A(a)(2)(A). Accordingly, the applicant is ineligible for permanent resident status under the LIFE Act.

The appeal will be dismissed, and the application denied.

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