



U.S. Citizenship  
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FILE: [REDACTED] Office: Los Angeles  
MSC 02 236 63567

Date: JAN 04 2008

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:

SELF-REPRESENTED

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. If your appeal was sustained, or if the matter 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.

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 (AAO) on appeal. The appeal will be dismissed.

The district 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 reiterates his claim of continuous residence in the United States since 1981. The applicant declares that any inconsistencies in his testimony relating to his employment history were the result of a faulty memory and the passage of time.

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 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 212(a) of the Immigration and Nationality Act (Act), 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).

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 to May 4, 1988, the submission of any other relevant document including affidavits is permitted pursuant to 8 C.F.R. § 245a.2(d)(3)(vi)(L).

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 "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 district 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.

At issue in this proceeding is whether the applicant has submitted sufficient credible evidence to 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. Here, the submitted evidence is not relevant, probative, and credible.

The applicant made a claim to class membership in a legalization class-action lawsuit and as such, was permitted to previously file a Form I-687, Application for Temporary Resident Status Pursuant to Section 245A of the Immigration and Nationality Act (Act) on August 15, 1994. At part #19 of the Form I-687 application where applicants were asked to list all Social Security numbers used, the applicant failed to list any Social Security numbers. At part #33 of the Form I-687 application where applicants were asked to list all residences in the United States since the date of their first entry, the applicant listed "[REDACTED]" in Los Angeles, California from 1981 through the date the Form I-687 application was submitted on August 15, 1994. Further, at part #36 of the Form I-687 application where applicants were asked to list all employment in the United States since first entry, the applicant listed employment with [REDACTED] from February 8, 1990 through the date the Form I-687 application was submitted on August 15, 1994. The applicant failed to list any earlier employment in the United States at part #36 of the Form I-687 application.

With the Form I-687 application, the applicant included a "Form for Determinations of Class Membership in CSS v. Meese." At question #6 of the determination form where applicants were asked when they first entered the United States, the applicant listed "1981" as the date he first entered this country.

In support of his claim of continuous residence in this country since prior to January 1, 1982, the applicant submitted an affidavit that is signed by [REDACTED] Ms. [REDACTED] stated that she had personal knowledge the applicant resided at [REDACTED] Street in Los Angeles, California from September 1981 through the date the affidavit was executed on July 11, 1993. Ms. [REDACTED] noted that the source of such knowledge derived from the fact that her daughter was married to the applicant's brother.

The applicant included an affidavit signed by [REDACTED] who declared that she had personal knowledge the applicant resided at [REDACTED] in Los Angeles, California from August 1982 through the date the affidavit was executed on July 11, 1993. Ms. [REDACTED] indicated that her knowledge of the applicant's residence was the result of their friendship. However, Ms. [REDACTED] failed to attest to the applicant's residence in this country from prior to January 1, 1982 up to August 1982.

The applicant provided an affidavit that is signed by [REDACTED]. Mr. [REDACTED] asserted that he had personal knowledge the applicant resided at [REDACTED] in Los Angeles, California from May 1980 through the date the affidavit was executed on July 14, 1993. Mr. [REDACTED] claimed that the source of such knowledge derived from his friendship with the applicant and the fact that he played soccer with him. However, Mr. [REDACTED] assertion that applicant resided at the [REDACTED] Street address since May 1980 directly contradicted the applicant's testimony that he began to reside at this address in 1981 at part #33 of the Form I-687 application, as well as the applicant's testimony that he first entered this country in 1981 at question #6 of the determination form.

The record shows that the applicant filed his Form I-485 LIFE Act application with the Immigration and Naturalization Service, or the Service (now Citizenship and Immigration Services or CIS) on May 24, 2002.

In support of his claim of continuous residence in the United States since prior to January 1, 1982, the applicant submitted a photocopy of a receipt dated November 26, 1981 from Monterey Glass in Gardena, California. Although the receipt contains a hand-written notation with a portion of the applicant's name, the receipt does not contain any specific and verifiable information to corroborate his claim of residence in this country during the requisite period such as his address of residence, despite the fact that the receipt provided an address block where such customer information could be entered.

The applicant included a Rediform Statement of Earnings & Deductions reflecting wages earned by him from an unspecified employer for the period from May 3, 1982 to May 10, 1982. However, as noted above, the applicant failed to list any employment in the United States prior to February 8, 1990 at part #36 of the Form I-687 application where applicants were asked to list all employment since entry. The applicant failed to provide any explanation as to why employment that purportedly occurred in 1982 was not listed at part #36 of the Form I-687 application.

The applicant provided a photocopied envelope that is postmarked June 12, 1982 and is addressed to the applicant at the address of residence for that corresponding date he listed at part #33 of the Form I-687 application. Nevertheless, the photocopied envelope must be considered to be of very limited probative value as it does not contain a cancelled postage stamp to establish that such envelope had actually been mailed to the applicant on this date.

The applicant submitted a photocopied "Request for Medically Excused Absence" from the Westchester Orthopaedic Group at [REDACTED] in Los Angeles, California. The request indicates that the applicant was seen in this medical office on July 21, 1983 with a return visit scheduled for July 25, 1983 at 2:30 P.M. However, this document must be considered to be of limited probative value without corroborative medical records.

The applicant included a photocopied Form 540A, California Resident Personal Income Tax, for the 1984 tax year. The tax return is dated March 6, 1985, and listed the applicant's name, address, earned income, and [REDACTED] as his Social Security number. However, the Form 540A tax return is unsigned and contains no indication that such document was ever submitted to the State of

California. In addition, as has been noted the applicant had previously failed to list any Social Security numbers at part #19 of the Form I-687 application where applicants were asked to list all Social Security numbers used. The applicant failed to provide any explanation as to why the Social Security number entered on Form 540A tax return was not listed at part #19 of the Form I-687 application.

The applicant provided an employment letter that is signed by [REDACTED] who listed his address as [REDACTED], California and his general contractor license number as [REDACTED] stated that the applicant worked full-time for him performing general construction duties from September 1985 to March 1990. However, Mr. [REDACTED]'s testimony that he employed the applicant on a full-time basis beginning in September 1985 does not conform to the applicant's own testimony regarding his employment history as the applicant failed to list any employment in the United States prior to February 8, 1990 at part #36 of the Form I-687 application where applicants were asked to list all employment since entry. The applicant failed to provide any explanation as to why employment that purportedly occurred on a full time basis from September 1985 through to March 1990 was not listed at part #36 of the Form I-687 application. In addition, Mr. [REDACTED] failed to provide the applicant's address of residence during that period he was employed and failed to declare whether such information had been taken from company records, as required by 8 C.F.R. § 245a.2(d)(3)(i).

The applicant submitted a photocopied Statement of Earnings & Deductions reflecting wages earned by him from the Endicott Corporation in Manhattan Beach, California for the period August 6, 1987. However, as previously noted, the applicant failed to list any employment in the United States prior to February 8, 1990 at part #36 of the Form I-687 application where applicants were asked to list all employment since entry. The applicant failed to provide any explanation as to why employment that purportedly occurred in 1987 was not listed at part #36 of the Form I-687 application.

The applicant included a photocopied page of an electric bill from an unidentified utility company with a service period from September 4, 1987 to October 5, 1987. However, this document has no probative value as it does not contain any information either identifying him or relating to his claim of residence in the United States for the requisite period.

The record reflects that the applicant appeared for an interview relating to his Form I-485 LIFE Act application at the CIS district office in Los Angeles, California on February 19, 2004. The notes of the interviewing officer reveal that the applicant testified under oath that he began working in 1985. Although the applicant testified that he began working in 1985, he included a statement of earnings from May 1982 and a California tax return reflecting taxable income for the 1984 tax year with his Form I-485 LIFE Act application. The fact that the applicant provided supporting documents reflecting employment in 1982 and 1984 tends to contradict his testimony at his interview that he began working in 1985. Furthermore, such testimony is inconsistent with the applicant's prior testimony relating to his employment history as the applicant failed to list any employment prior to February 8, 1990 at part #36 of the Form I-687 application.

On July 12, 2004, the district director issued a notice of intent to deny to the applicant informing him of CIS' intent to deny his LIFE Act application because of the fact that he failed to submit sufficient

credible evidence of continuous unlawful residence in the United States for the period in question. The district director also noted that the applicant himself had provided contradictory testimony and conflicting evidence relating to his employment history. The applicant was granted thirty days to respond to the notice and provide additional evidence in support of his claim of residence in the requisite period. The record shows that the applicant failed to respond to the notice.

The district director determined that the applicant failed to submit sufficient evidence demonstrating his residence in the United States in an unlawful status from January 1, 1982 through May 4, 1988, and, therefore, denied the Form I-485 LIFE Act application on September 21, 2004.

On appeal, the applicant declares that he has lived in the United States for over twenty-three years. The applicant asserts that any inconsistencies in his testimony relating to his employment history at his interview on February 19, 2004 were the result of a faulty memory and the passage of time. However, the explanation put forth by the applicant cannot be considered as sufficient in light of the fact that he failed to list any employment in the United States prior to February 8, 1990 at part #36 of the Form I-687 application and such application had been submitted on August 15, 1994, over nine years prior to his the date of his interview. Further, the evidence submitted by the applicant relating to his residence in the United States from prior to January 1, 1982 lacks sufficient detail, contains little verifiable information, and in some cases conflicts with elements of the applicant's own testimony regarding his residence and employment history in this country for the corresponding period.

Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988).

The absence of sufficiently detailed supporting documentation and the existence of conflicting testimony that contradicts critical elements of the applicant's claim of residence seriously undermines the credibility of the supporting documents, as well as the credibility of the applicant's claim of residence in this country for the period in question. The applicant himself has undermined the credibility of his claim of continuous residence in this country since prior to January 1, 1982 by providing conflicting testimony relating to his employment history during the period in question. Pursuant to 8 C.F.R. § 245a.12(e), the inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. The applicant has failed to submit sufficient credible documentation to meet his burden of proof in establishing that he has resided in the United States since prior to January 1, 1982 to May 4, 1988 by a preponderance of the evidence as required under both 8 C.F.R. § 245a.12(e) and *Matter of E-- M--*, 20 I&N Dec. 77 (Comm. 1989).

Given the applicant's reliance upon supporting documents with minimal probative value and the conflicting nature of testimony contained in the record, 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 as required under section 1104(c)(2)(B) of the LIFE Act. The applicant is, therefore, ineligible for permanent resident status under section 1104 of the LIFE Act on this basis.

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