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U.S. Citizenship
and Immigration
Services

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FILE:

MSC 02 211 62120

Office: Los Angeles

Date:

JAN 30 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. 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, 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 failed to establish residence in the United States in an unlawful status from January 1, 1982 through May 4, 1988.

On appeal, the applicant contends that he has submitted all available evidence to support his claim of continuous residence in the United States from prior to January 1, 1982 through May 4, 1988 to Citizenship and Immigration Services or CIS (formerly the Immigration and Naturalization Service or the Service). The applicant states that it is very difficult to obtain further evidence due to the passage of time. The applicant provides copies of previously submitted documents as well as new letter in support of his claim of residence in this country for the requisite period.

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.

8 C.F.R. § 245a.2(d)(3)(v) states that attestations by churches, unions, or other organizations to the applicant's residence by letter must: identify applicant by name; be signed by an official (whose title is shown); show inclusive dates of membership; state the address where applicant

resided during membership period; include the seal of the organization impressed on the letter or the letterhead of the organization, if the organization has letterhead stationery; establish how the author knows the applicant; and, establish the origin of the information being attested to.

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.

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 file a Form I-687, Application for Temporary Resident Status Pursuant to Section 245A of the Immigration and Nationality Act (Act), on or about July 19, 1991. 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 Long Beach, California from February 1980 to May 1984, “[redacted]” in Long Beach, California from May 1984 to September 1987, and “[redacted]” in Long Beach, California from September 1987 through the date the Form I-687 application was submitted. At part #36 of the Form I-687 application where applicants were asked to list employment in the United States since first entry, the applicant listed employment with [redacted] as a helper and welder from January 1981 through the date the Form I-687 application was submitted, B. & S. Auto Dismantling in Wilmington, California as an auto body worker from November 1981 to May 1986, and J.C. Body Shop in Long Beach, California as an auto body worker from June 1986 to January 1990.

In support of his claim of continuous residence in the United States since prior to January 1, 1982, the applicant submitted a “Certificate of Employment” that is dated June 6, 1991 and

signed by [REDACTED], owner of B. & S. Auto Dismantling in Wilmington, California. [REDACTED] provided the applicant's address as of the date the certificate was executed and stated that he had employed the applicant as a bodyman from November 1981 to May 1986 and again from February 1990 through June 6, 1991. However, [REDACTED] failed to provide the applicant's address of residence during that period he employed the applicant from November 1981 to May 1986 as required by 8 C.F.R. § 245a.2(d)(3)(i). Further, [REDACTED] failed to attest to the applicant's residence in the United States after May 1986 through May 4, 1988.

The applicant included a declaration signed by [REDACTED] who indicated that he had met the applicant a long time ago and both he and the applicant had worked together at J.C. Auto Body Repair & Paint since 1986. However, this declaration is of limited probative value as Mr. [REDACTED] failed to provide any specific and verifiable testimony, such as the date he first met the applicant, the circumstances under which they met, or the applicant's address of residence, that would tend to corroborate the applicant's claim of residence in this country from prior to January 1, 1982 up to 1986.

The applicant provided an affidavit that is signed by [REDACTED] Mr. [REDACTED] declared that he had known the applicant since early 1981 and the applicant had resided at his home at [REDACTED] in Long Beach, California from 1984 to 1987. [REDACTED] indicated that on occasion he employed the applicant as a welder's helper during that period he had known him. However, Mr. [REDACTED] failed to provide any relevant and direct information regarding the applicant's residence in the United States from prior to January 1, 1982 up to 1984 and after 1987 through May 4, 1988.

The applicant submitted an affidavit signed by [REDACTED] who stated that he known the applicant while he was residing in Mexico City, Mexico a long time ago. [REDACTED] noted that he and the applicant had lost contact with one another after the applicant purportedly traveled to the United States on an unspecified date. [REDACTED] asserted that he came to the United States in 1986 and reestablished contact with the applicant. Nevertheless, this affidavit is of minimal probative value because [REDACTED] acknowledged that he had no contact with the applicant since he left Mexico City on an unspecified date through 1986 and failed to cite the source of his knowledge relating to the applicant's place of residence in that period. Additionally, [REDACTED] failed to provide any specific verifiable testimony to corroborate the applicant's claim of residence in this country after 1986.

The applicant included an affidavit that is co-signed by [REDACTED] and [REDACTED]. The affiants declared that they had known the applicant since early 1980 and the applicant had resided with them at [REDACTED] in Long Beach, California from 1980 to 1984. However, neither affiant attested to the applicant's residence in the United States after 1984 through May 4, 1988.

The applicant provided an affidavit signed by [REDACTED] who claimed that he had known the applicant since early 1981. [REDACTED] noted that he and the applicant became good friends who would see each other on weekends and holidays. However, [REDACTED] testimony lacked

any pertinent and probative information to substantiate the applicant's claim of residence in this country for the requisite period.

The applicant submitted an affidavit that is signed by Mr. [REDACTED] declared that he had met the applicant at a party on an unspecified date in 1984 and they had remained good friends since. However, [REDACTED] failed to attest to the applicant's residence in the United States from prior to January 1, 1982 through 1984. Further, [REDACTED] failed to provide any specific verifiable testimony to corroborate the applicant's claim of residence in this country after 1984.

On April 29, 2002, the applicant filed his Form I-485 LIFE Act application. Subsequent to the filing of his Form I-485 LIFE Act application, the applicant submitted a declaration that is signed by [REDACTED] s. Ms. [REDACTED] stated that she first met the applicant in 1980 when he offered his services as an auto body worker and technician to her and her husband. [REDACTED] asserted that the applicant was well known throughout the local Hispanic community because of his work on automobiles, his role as an active volunteer for Alcoholics Anonymous, and his abilities as a communicator. [REDACTED] noted that she later became acquainted with the applicant's wife, children, and grandchildren and maintained contact with the applicant and his family through mutual invitations to social and cultural events. Although [REDACTED] attested to the applicant's residence in this country in 1980, she failed to detail how frequently she had contact with the applicant during the requisite period.

The applicant provided a letter signed by [REDACTED] who declared that he had known and maintained a good friendship with the applicant and his family since 1982. However, [REDACTED] failed to attest to the applicant's residence in the United States prior to that unspecified date he first met the applicant in 1982. In addition, [REDACTED] did not provide any specific and verifiable testimony, such as the date he first met the applicant, the circumstances under which they met, or the frequency of their contact, that would tend to corroborate the applicant's claim of residence in this country after 1982.

The applicant included a photocopy of a residential lease for a two-bedroom apartment at an unspecified address in Long Beach, California that is dated February 15, 1980 and signed by [REDACTED] as lessor (landlord) and the applicant as lessee (tenant). However, this document cannot be considered as a valid lease because the address of the premises to be rented is not listed. Further, the applicant testified that he lived at [REDACTED] in Long Beach, California from February 1980 to May 1984 at part #33 of the Form I-687 application. This testimony appeared to be corroborated by [REDACTED] and [REDACTED] who both stated that the applicant resided with them at this same address in Long Beach, California from 1980 to 1984 in their affidavit. No explanation was advanced as to how the applicant was listed as the sole lessee on the lease if in fact he had lived with [REDACTED] and [REDACTED] during this period.

On October 15, 2004, the district director issued a notice of intent to deny to the applicant informing him of CIS's intent to deny his application because he failed to submit sufficient evidence of continuous unlawful residence in the United States from prior to January 1, 1982 through May 4, 1988. The applicant was granted thirty days to respond to the notice.

In response, the applicant submitted a rebuttal statement in which he contended that he had misplaced all of his original documents establishing his residence in this country during the requisite period. The applicant included provided copies of previously submitted documentation with his response.

The district director determined that the applicant failed to submit sufficient credible 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 November 16, 2004.

On appeal, the applicant contends that he has submitted all available evidence to support his claim of continuous residence in the United States from prior to January 1, 1982 through May 4, 1988 to CIS. The applicant states that it is very difficult to obtain further evidence due to the passage of time. The applicant claims that the affiants who provided documents in support of his claim of residence were available to verify their testimony. However, the applicant failed to provide evidence containing sufficiently detailed and verifiable information to corroborate his claim of residence in the United States in the requisite period. The applicant fails to advance any compelling reason as to why any attempt to verify the testimony contained in his supporting documents should be made in light of the minimal probative value of these affidavits. While it is acknowledged that it may be difficult to obtain supporting documentation relating to a period that occurred some twenty or more years ago, the mere passage of time is insufficient to explain the fact that the evidence in the record lacks sufficiently detailed and verifiable information to corroborate the applicant's claim of residence in the United States for the requisite period.

The applicant submits a letter dated December 2, 2004 containing the letterhead of Victory Outreach Alcance Victoria Church of Long Beach in Long Beach, California and is signed by [REDACTED]. In his letter [REDACTED] states that he has known the applicant and his family as members of this church for many years. [REDACTED] declares that he knows that the applicant to be a good family man and member of the community. However, as noted above, the applicant did not list any association or affiliation with Victory Outreach Alcance Victoria Church of Long Beach at either part #34 of the Form I-687 application or part #3C of the Form I-485 LIFE Act application. In addition, Pastor Castanon fails to provide a complete listing of the applicant's addresses of residence during the entire period he had been affiliated with the church or the exact dates of membership as required by 8 C.F.R. § 245a.2(d)(3)(v). Moreover, [REDACTED] fails provide any direct testimony that the applicant resided in the United States from prior to January 1, 1982.

Doubt cast on any aspect of the evidence may lead to a reevaluation of the reliability and sufficiency of the remaining evidence. It is incumbent upon an 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. *See Matter of Ho*, 19 I&N Dec. 582 (BIA 1988).

The absence of sufficiently detailed supporting documentation and the existence of conflicting testimony seriously undermine the credibility of the applicant's claim of residence in this country for the requisite period, as well as the credibility of the documents submitted in support of such claim. 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.

Given the applicant's reliance upon documents with minimal or no 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 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.