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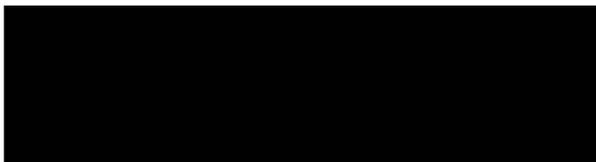
U.S. Department of Homeland Security  
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FILE: MSC-03-078-60017

Office: LOS ANGELES

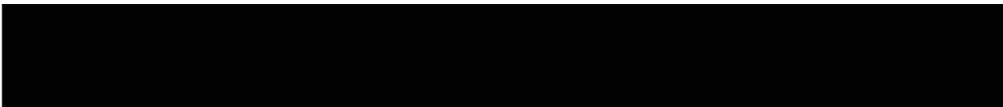
Date: JAN 31 2008

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:



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.

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, and the decision was appealed to the Administrative Appeals Office (AAO). The AAO rejected the appeal as untimely. The applicant provided additional evidence indicating the appeal was timely filed. The decision is again before the AAO, as the AAO has reopened the adjudication of the appeal *sua sponte*. The appeal will be dismissed.

The director denied the application for the reasons explained in the Notice of Intent to Deny (NOID). Specifically, the director determined the applicant failed to establish that he entered the United States before January 1, 1982 and resided in continuous unlawful status since that date through May 4, 1988.

On appeal, counsel for the applicant stated that the director had failed to consider the difficulty in obtaining evidence after the passage of time and that the director should give the proper weight to the applicant's affidavits.

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 December 17, 2002. The record also includes a Form I-687 Application for Status as a Temporary Resident signed by the applicant on May 24, 1990. At part #33 where applicants were asked to list all residences in the United States since entry, the applicant listed only the following address during the requisite period: 532 Juanita #5, Los Angeles, California from June 1, 1981 to July 1, 1989. At part #36 where applicants were asked to list employment in the United States since first entry, the applicant listed the following positions during the requisite period: Cashier for Uicol 76 from November 1980 to May 1982; cook for El Poco Chicken from May 1982 to June 1982; cashier for Sunrise Market from July 1982 to March 1984; cashier for AM-PM Minimarket from June 1984 to November 1984; and self-employed from January 1985 to June 1987.

The applicant provided multiple attestations in an attempt to establish that he resided in the United States during the requisite period. Several attestations failed to confirm the applicant resided in the United States during the requisite period. These include attestations from [REDACTED] and [REDACTED], and an attestation from [REDACTED] dated February 20, 2006.

The applicant also provided multiple attestations that were unsigned and, therefore, hold no evidentiary weight. These include an attestation from [REDACTED] and undated attestations from [REDACTED] and [REDACTED].

The applicant submitted two affidavits from [REDACTED]. In the form affidavit dated April 21, 1990, the affiant stated that to his personal knowledge the applicant has resided in the United States at [REDACTED] Los Angeles, California from June 1, 1981 to July 1, 1989. Where the affiant was asked to list the facts from which he is able to determine the date of his acquaintance with the applicant, the affiant merely stated, "p[er]sonal relation." In the other form affidavit dated May 21, 1990, the affiant stated that the applicant was living in the United States since 1980. Neither of the affidavits provides any detail regarding the date and manner in which the affiant became acquainted with the applicant or the affiant's frequency of contact with the applicant during the requisite period. Therefore, both of the affidavits are found to lack sufficient detail to confirm that the applicant resided in the United States during the requisite period.

The applicant provided a declaration from [REDACTED] dated February 12, 2006. In this declaration, the declarant stated that he met the applicant at a social gathering in California in January 1982. The declarant stated that he has kept in contact with the applicant since they met, and the applicant occasionally helped the declarant by providing handy work at the declarant's current address. The declarant failed to specify the nature and frequency of his contact with the applicant, and he failed to indicate the frequency and dates during which the applicant worked for him. The declaration indicates the applicant was present in the United States during January 1982. However, the declaration fails to confirm the applicant resided in the United States during the requisite period.

The applicant submitted a declaration from [REDACTED] dated February 28, 2006. In this declaration, [REDACTED] stated that the applicant used to work for the declarant at [REDACTED] Gas Station (Mobil) twice a week from July 1982 to April 1988. At the time, the declarant owned the business. This declaration is inconsistent with the applicant's Form I-687 application, where the applicant failed to list employment with [REDACTED] Gas Station or Mobil when asked to list all employment in the United States. This inconsistency calls into question the declarant's ability to confirm the applicant's residence during the requisite period. In addition, the declaration does not conform to regulatory standards for letters from employers as stated in 8 C.F.R. § 245a.2(d)(3)(i). Specifically, the declaration does not include the applicant's address at the time of employment, whether or not the information was taken from official company records, where the records are located, and whether the service may have access to the records.

The applicant also provided a form affidavit from [REDACTED] dated February 10, 1993. In this affidavit, [REDACTED] stated that the applicant resided and maintained residence at [REDACTED] Glendale, California from July 1981 to present. This affidavit is inconsistent with the information found on the applicant's Form I-687, where the applicant failed to indicate he resided on [REDACTED] or in Glendale, California during the requisite period. This inconsistency calls into question the affiant's ability to confirm the applicant's residence during the requisite period.

In denying the application the director found that the applicant failed to establish that he entered the United States before January 1, 1982 and resided in continuous unlawful status since that date through May 4, 1988.

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 attestations that fail to confirm the applicant resided in the United States during the requisite period, are unsigned, lack sufficient detail, are inconsistent with the applicant's Form I-687, or do not conform to regulatory standards. The attestations from [REDACTED] and [REDACTED] an attestation from [REDACTED] dated February 20, 2006, and the declaration from [REDACTED] dated February 12, 2006 all fail to confirm the applicant resided in the United States during the requisite period. The attestation from [REDACTED] and undated attestations from [REDACTED] and [REDACTED] are all unsigned. The affidavits from [REDACTED] lack sufficient detail. The declaration from [REDACTED] dated February 28, 2006 is inconsistent with the applicant's Form I-687 and fails to conform to regulatory standards. The affidavit from [REDACTED] is inconsistent with the applicant's Form I-687.

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 contradictions between the applicant's Form I-687 and the other documents he submitted, and 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 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.