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U.S. Department of Homeland Security  
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Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

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[REDACTED]

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FILE: [REDACTED]  
MSC 02 245 60165

Office: CHICAGO

Date: JUL 01 2008

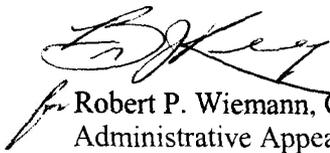
IN RE: Applicant: [REDACTED]

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:  
[REDACTED]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has been returned to the National Benefits Center. 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, Chicago, Illinois, 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, counsel for the applicant asserts that the director erred in not considering all of the evidence submitted. Counsel submits additional evidence on appeal.

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 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).

In the Notice of Intent to Deny (NOID), dated October 5, 2005, the director stated that the applicant failed to submit sufficient evidence demonstrating his continuous unlawful residence in the United States during the requisite period. The director granted the applicant thirty (30) days to submit additional evidence.

The record reflects that the applicant's response to the NOID consisted of affidavits (with identification documents) from [REDACTED] and [REDACTED]. No additional evidence was received. In the Notice of Decision, dated March 6, 2006, the director denied the instant application based on the reasons stated in the NOID.

The issue in this proceeding is whether the applicant has furnished sufficient credible evidence to demonstrate his continuous residence in the United States in an unlawful status, and his physical presence, during the requisite period. In an attempt to establish continuous unlawful residence in the United States during the requisite period in this country since prior to January 1, 1982, the applicant submits an employment letter, 14 affidavits, and school records, as evidence to support his Form I-485 application. Here, the submitted evidence is not relevant, probative, and credible.

The documentation submitted is questionable. For example, the applicant submitted a notarized form letter of employment from [REDACTED], notarized in 1987, stating that the applicant was employed from 1981 as a laborer. In his affidavit, [REDACTED] provides the applicant's address at the time of employment and states that there were no periods of layoff. However, it is noted that although the affiant states that the applicant was employed as a laborer in 1981, the applicant (who was born on July 30, 1982) was less than 10 years old at that time. It is unlikely that the applicant was employed as a day laborer at age nine as the affiant claims. In addition, the applicant submitted two affidavits from [REDACTED] (the applicant's mother), stating that the applicant resided with her in the United States from March 1981 through January 1991. This affidavit, however, is self-serving, and the affiant does not submit any supporting documentation to corroborate any of her statements. Furthermore, the affidavits are inconsistent as the addresses listed by the affiant where she claims she resided with the applicant do not match. For example, [REDACTED] states in her January 11, 1991 affidavit that the applicant resided with her since 1981 at the following addresses: [REDACTED], Houston, Texas 77093, from March 1981 until February 1983; [REDACTED] Houston, Texas 77093, from February 1983 to October 1985; and, [REDACTED] Houston, Texas, from 1985. However, in her affidavit sworn to in 1988, the affiant does not list the address at [REDACTED], or the address at [REDACTED], although she attests in that affidavit that she listed the addresses where the applicant lived with her to the present (the date of the affidavit). It is also questionable whether [REDACTED] the affiant, would have permitted her nine-year old child to work as a laborer while he lived with her. In addition, the applicant submitted questionable school records. Specifically, the applicant submitted a report card from the Houston Independent School District that appears to have been altered. The report card, which is for the school year 1984 – 1985,

has been altered to read "1980 – 1985." Also, although the applicant's mother attests that the applicant resided with her in the United States from 1981, there is no credible evidence that the applicant attended school in the United States during the years 1981, 1982, or 1983. The applicant has failed to provide sufficient contemporaneous documentation to establish his continuous residence. In that the applicant claims that he has been in the United States since 1981, it is reasonable to expect that the applicant would be able to provide reliable contemporaneous evidence to establish the requisite residence. These unresolved discrepancies cast considerable doubt on the validity of the applicant's claim. 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 lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). The applicant has failed to submit any objective evidence to explain or justify the discrepancies in the record. Therefore, the AAO finds that the reliability of the remaining evidence offered by the applicant (consisting of 14 affidavits) is suspect and it must be concluded that the applicant has failed to establish that he continuously resided in the United States in an unlawful status during the requisite period.

Therefore, based on the above, the applicant has failed to establish entry into the United States prior to January 1, 1982, and continuous unlawful residence 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.