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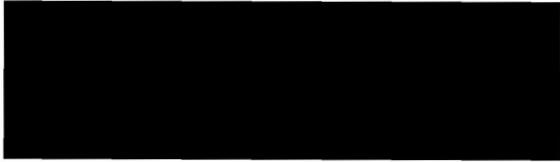
Applicant:



APPLICATION:

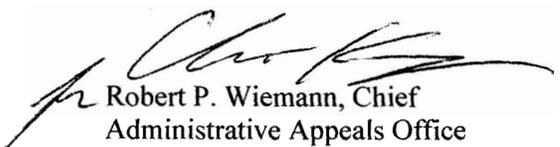
Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), amended by LIFE Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000).

ON BEHALF OF APPLICANT:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have 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, Dallas, 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 continuously resided in an unlawful status since such date through May 4, 1988, as required by section 1104(c)(2)(B) of the LIFE Act.

On appeal, counsel asserts that the applicant has submitted credible and verifiable evidence that he was continuously and physically present in the United States since before January 1982, through May 4, 1988.

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 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 through May 4, 1988. *See* § 1104(c)(2)(B) of the LIFE Act and 8 C.F.R. § 245a.11(b). The applicant 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 section 1104 of the LIFE Act. 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.* at 80. 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 or 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 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).

At issue in this proceeding is whether the applicant has submitted sufficient credible evidence to meet the burden of establishing, by a preponderance of the evidence, that the applicant’s claim of continuous unlawful residence in the United States during the requisite period is probably true. Upon an examination of each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, the AAO finds that the applicant has failed to meet this burden.

On appeal, the applicant submits an affidavit, dated July 24, 2006. The applicant stated that he entered the United States in November 1981 with his brother and stayed in El Paso, Texas for about one week before they came to Forth Worth, Texas. He stated that they have remained in this area since then. He stated that he lived with [REDACTED] Worth from 1981 to 1986 and in 1986 he moved to Hurst to live with the [REDACTED] family. He further stated that while they moved various times to [REDACTED] [REDACTED] he still spent a lot of time at [REDACTED] place in Forth Worth, which was approximately ten minutes away. He stated that he only worked and did not attend school as [REDACTED] had incorrectly stated. Finally, he noted that the discrepancies in the places and dates of his residences were mainly a notary’s mistake. However, to meet his or her burden of proof, an applicant must provide evidence of eligibility apart from the applicant’s own testimony. 8 C.F.R. § 245a.13(f).

The applicant has provided the following evidence relating to the requisite period:

1. An affidavit, dated September 21, 2002, from [REDACTED] who stated that she has known the applicant since November 20, 1981, through the present. She stated that she provided room and board to him from November 20, 1981, through August 1986. She further stated that in August 1986 he moved to live with the [REDACTED] family at [REDACTED]. She reaffirmed her statements in a subsequent affidavit, dated August 18, 2005. She also provided an affidavit contributing any discrepancies regarding the applicant’s place of residence as a mistake by a notary public. The affiant provided her place of

residence, as well as a copy of her Texas driver license and social security card. It is noted that upon verification, the affiant stated the applicant attended school. The applicant stated that the affiant had confused him with her other tenants but failed to submit independent, objective evidence to reconcile the discrepancy. Due to the discrepancy, the affidavit has only minimal weight as evidence of the applicant's residence in the United States during the requisite period.

2. An affidavit, dated August 9, 2005, from [REDACTED] who stated that he has known the applicant since he lived at [REDACTED]. The affiant failed to indicate the time period during which the applicant resided at this address, to provide sufficient details regarding how or when he met the applicant, or to indicate that the applicant continuously resided in the United States during the requisite period. Given the lack of relevant details, the affidavit cannot be given any weight as evidence of the applicant's residence in the United States during the statutory period.
3. A declaration, dated August 9, 2005, from [REDACTED] who stated that he has known the applicant since May or June 1982 until "now 2005." He stated that they both mowed lawns and worked at the same place. This affidavit can be given very little weight as it is vague and does not indicate the applicant's place of residence, who they worked for or for how long. It provides very little probative value.
4. A declaration, dated August 12, 2005, from [REDACTED] Pastor at Saint John the Apostle Catholic Church, who stated that the applicant and his wife attend his church. He further stated that the Church has records of their children being baptized and receiving their first communion. By regulation, letters from churches attesting to the applicant's residence must show inclusive dates of membership and state the address where the applicant resided during the membership period. 8 C.F.R. § 245a.2(d)(3)(v). The declarant failed to provide this information and, therefore, the declaration cannot be given any weight as evidence of the applicant's residence during the statutory period. In addition, according to the applicant's Form I-485, his first child was born in 1991, well outside the statutory period.
5. Two similar form affidavits from [REDACTED], dated October 10, 1990, and October 20, 1990, respectively. [REDACTED] stated that he has personal knowledge that the applicant resided in the United States from November 1981 to the present. [REDACTED] stated that he has personal knowledge that the applicant resided in the United States from November 1981 to August 1986. Neither affiant provided details regarding their claimed friendships with the applicant or provided any information that would indicate personal knowledge of the applicant's places of residence or the circumstances of his residence over the prior nine years of their claimed relationships. Although they

claimed to have known the applicant since 1981, they failed to note how or where they met him. Lacking relevant details, these affidavits have minimal probative value.

6. A form affidavit, dated October 3, 1990, from [REDACTED] who stated that he has personal knowledge that the applicant resided in the United States from November 1981 to the present, and provided the applicant's places of residence during this time period. [REDACTED] November 1981 to June 1986; 745 [REDACTED] from July 1986 to August 1987; [REDACTED] Apt. 67, from August 1987 to May 1988. The affiant did not provide details regarding his claimed friendship with the applicant or any information about the circumstances of the applicant's residence over the prior nine years of his claimed relationship. Although the affiant claimed to have known the applicant since 1981, he failed to note how or where he met him. Lacking relevant details, the affidavit has minimal probative value.
7. An affidavit, dated September 26, 2002, from [REDACTED] who stated that he has known the applicant since 1975; that the applicant resides at [REDACTED] Texas; and that they were raised close by together. The affiant failed to indicate how or where he met the applicant, where the applicant resided during the statutory period, or sufficient details regarding their relationship. Because the affidavit is significantly lacking in relevant detail, it lacks probative value and can be given no weight as evidence of the applicant's residence in the United States during the requisite period.
8. An affidavit, dated July 26, 1990, from [REDACTED], who stated that he has known the applicant since 1981 when they met in El Paso, Texas. The affiant failed to indicate how he met the applicant or the circumstances regarding the applicant's residence during the relevant time period. In addition, the affidavit is not amenable to verification. As such, the affidavit can be given no weight as evidence of the applicant's residence in the United States during the requisite period.
9. An affidavit, dated September 14, 1990, from [REDACTED] who stated that she has known the applicant since July 1986. She stated that the applicant resided with her family from July 18, 1986, to August 1, 1987, at the address of [REDACTED]. She further stated that the applicant resided at [REDACTED] from August 1, 1987, to May 1988. She reaffirms her statements from a prior affidavit signed jointly with [REDACTED] dated September 19, 1990. The affiant provided her place of residence and a copy of her certificate of naturalization. However, she failed to indicate how she met the applicant or why he moved in with her family. The affidavit provides minimal probative value.

10. An affidavit, dated September 15, 1990, from [REDACTED], who stated that he has known the applicant from September 2, 1986 to September 15, 1987 and that he worked with him at Porter Roofing. He reaffirmed his statement in a subsequent affidavit, dated September 30, 2002. In another affidavit, dated September 2, 2003, [REDACTED] stated that the applicant was his employee between September 2, 1986 and September 15, 1988; the applicant worked as a roofer and was paid in cash; the applicant resided at [REDACTED]; and that the information was not taken from company records as none exist, but taken from his personal knowledge. The affiant provided his place of residence and copies of his Texas certificate of birth and his Texas driver license. These affidavits provide some probative value of the applicant's residence and employment during a portion of the requisite period.
11. A pay stub from Lotus Chinese Restaurant, dated January 25, 1988 in the applicant's name. This evidence provides some probative value that the applicant worked in the United States in January 1988.
12. An affidavit, dated September 3, 2003, from [REDACTED], who stated that he met the applicant in 1986 at the apartment complex they both lived at and that the applicant's address at the time was [REDACTED]. The affiant stated that they worked together at the Lotus Chinese Restaurant for about two years before the affiant moved to a new job. The affiant provided his place of residence. The affidavit is consistent with the applicant's own testimony. The affidavit provides some evidence of the applicant's residence and employment during a portion of the requisite period.
13. A notarized declaration, dated September 16, 2002, from [REDACTED] who stated that he has personally known the applicant since September 1987. He stated that he met the applicant while employed by Lotus Chinese Restaurant where they both worked. This declaration reaffirmed his previous affidavit, dated September 18, 1990. This declaration is inconsistent with the applicant's previously filed Forms I-687, which state he started working at the Lotus Chinese Restaurant in January 1988. Given the discrepancy, this affidavit can be given no probative value and detracts from the credibility of the affiant.
14. An affidavit, dated October 1, 2002, from [REDACTED] who stated that he has known the applicant since 1983 at [REDACTED] Texas. The affidavit lacks significant probative details, such as how they met or how frequently they saw each other, which would lend more credibility to the affiant's claim. Lacking relevant details, this affidavit has minimal probative value.
15. An affidavit, dated September 15, 1990, from [REDACTED] who stated that the applicant has been working in the Bedford area from 1988 to 1990; the applicant worked with [REDACTED] doing landscaping; and the applicant worked at the

Lotus Chinese Restaurant in Bedord. The affidavit lacks relevant details, such as how they met or how frequently they saw each other, which would lend more credibility to the affiant's claim. The affiant also failed to indicate the applicant's place of residence during the specific time period. In addition, the affidavit is not amenable to verification, therefore, it can be given no weight as evidence of the applicant's residence in the United States during the requisite period.

For the reasons noted above, the documents submitted in support of the applicant's claim have been found to have either no or minimal probative value as evidence of the applicant's residence and presence in the United States for the requisite period. Although some credible evidence exists of the applicant's residence in 1988, most of the affidavits attesting to the applicant's residence are bereft of sufficient detail to be found credible or probative. Not one affiant indicates credible personal knowledge of the applicant's entry to the United States in 1981 or credibly attests to his presence in the United States from 1981 to 1988.

The AAO finds that, upon an examination of each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, the applicant has not shown by a preponderance of the evidence that he resided in the United States for the requisite period.

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. Given the lack of credible supporting documentation and the inconsistency noted in the record, it is concluded that the applicant has failed to establish by a preponderance of the evidence that he entered the United States before January 1, 1982 and maintained continuous, unlawful residence from such date through May 4, 1988, as required for eligibility for adjustment to permanent resident status under section 1104(c)(2)(B)(i) of the LIFE Act. The applicant is, therefore, 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.