



U.S. Citizenship  
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Services

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FILE:

MSC 03 235 60154

Office: DALLAS

Date: MAY 14 2008

IN RE: Applicant:

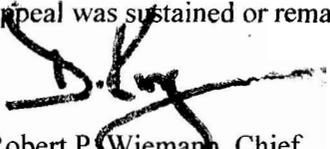
APPLICATION:

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. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits Center. 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. If your appeal was sustained or remanded for further action, you will be contacted.

  
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 resided in a continuous unlawful status through May 4, 1988.

On appeal, counsel submits additional evidence to establish the applicant's claim of entry into the United States before January 1, 1982, and continuous unlawful residence 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 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 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 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).

The regulation at 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.

In the Notice of Intent to Deny (NOID), dated on April 14, 2006, the director stated that the applicant failed to demonstrate his entry into the United States before January 1, 1982, and his continuous unlawful residence in the United States through May 4, 1988. The director granted the applicant thirty (30) days to submit additional evidence. The record reflects that additional evidence was received. In the Notice of Decision, dated on July 25, 2006, the director determined that the evidence failed to overcome the reasons for denial stated in the NOID. The director denied the instant application.

The issue in this proceeding is whether the applicant has furnished sufficient credible evidence to demonstrate that he entered the United States before January 1, 1982, and continuously resided in an unlawful status in the United States during the requisite period. Here, the applicant has failed to meet this burden.

In support of the applicant's claim, the record contains the following relevant evidence:

1. A July 7, 1990, affidavit by [REDACTED], who stated that he has personal knowledge that the applicant resided at [REDACTED], Bedford, Texas, from February 1981 to November 1984. The affiant, the owner of the business, stated that he employed the applicant as a laborer. The affiant stated that he paid the applicant \$4.50 per hour in cash. The affiant provided his place of residence. The affiant failed to 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 as required under the regulation at 8 C.F.R. § 245a.2(d)(3)(i). The lack of details detracts from the credibility of the affiant.
2. A May 4, 2003, declaration by [REDACTED], who stated that he has known the applicant since May 1980 until the present (2003). The declarant stated that they worked together from 1980 through 1990. The declarant also stated that the applicant used to live at [REDACTED] Fort Worth, Texas, from 1990 until the year 2000. The declarant provide [REDACTED] is telephone number and a copy of his permanent resident card. The declarant provided no details regarding the applicant's employment from 1980

through 1990. The declarant failed to state the applicant's place of residence during the requisite period. Although not required, the declaration failed to include any supporting documentation of the declarant's presence in the United States during the requisite period. The lack of details detracts from the credibility of the declarant.

3. A May 16, 2003, declaration by [REDACTED] who stated that the applicant worked for [REDACTED] from 1988 through 1995. The declaration is not verifiable. Also, the record contains the applicant's Form G-325A, Biographic Information, dated on May 8, 2003. In his Form G-325A, the applicant stated that he worked for the company from May 1988 to May 1995. This is outside the requisite period and not relevant to the applicant's claim. The declaration provides no probative value.
4. A May 6, 2003, declaration by [REDACTED], who stated that he has known the applicant since March 1988 until the present (2003) and that the applicant is his employer. The declarant provided his telephone number, place of address and a copy of his Texas driver's license. The declarant failed to state the applicant's place of residence during the requisite period. Although not required, the declaration failed to include any supporting documentation of the declarant's presence in the United States during the requisite period. The declarant failed to provide any details regarding his employment with the applicant. The declaration provides very limited probative value.
5. A May 4, 2003, declaration by [REDACTED], who stated that he has known the applicant since February 1988 until the present (2003) and that the applicant used to live at his address [REDACTED], Fort Worth, Texas) from January 2000 until January 2002. The declarant provided his telephone number and a copy of his Texas driver's license. The declarant failed to state the applicant's place of residence during the requisite period. Although not required, the declaration failed to include any supporting documentation of the declarant's presence in the United States during the requisite period. The declaration failed to indicate how he dated his acquaintance with the applicant, how he met the applicant or how frequently he saw the applicant. The lack of details detracts from the credibility of the declarant.

Although the applicant has submitted several affidavits in support of his application, the applicant has not provided sufficient credible evidence of entry into the United States before January 1, 1982, and continuous unlawful residence in the United States during the duration of the requisite period. As stated previously, the evidence must be evaluated not by the quantity of evidence alone but by its quality. Only two of the five affidavits/declarations claim to have knowledge of the applicant's presence in the United States beginning in 1981. These affidavits/declarations lack sufficient detail to bring credibility to the affiant/declarant. The remaining declarations attest to the applicant's presence in the United States beginning in 1988, the last few months during the requisite period. These declarations provided very limited probative value.

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

absence of sufficiently detailed documentation to corroborate the applicant's claim of continuous residence for the entire requisite period seriously detracts from the credibility of his claim. 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 during the requisite period. Therefore, 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.

Beyond the decision of the director, it is noted that based on the applicant's fingerprints, the record reflects the applicant was arrested on May 20, 2000, by the Fort Worth Police Department and charged with *interference with duties of public servant*.

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