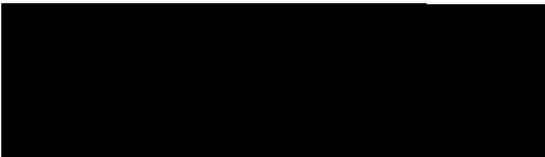


**Identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy.**



**U.S. Citizenship  
and Immigration  
Services**

**PUBLIC COPY**



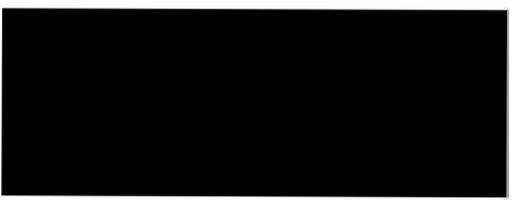
Lu

FILE: [REDACTED] Office: NEW YORK Date: **MAY 30 2008**  
MSC 02 240 64673

IN RE: Applicant: [REDACTED]

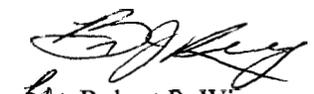
APPLICATION: Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), *amended by* Life Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000).

ON BEHALF OF APPLICANT:



**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.

  
for 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, New York, New York, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The district director determined that the applicant's Form I-687 applications submitted contradicted each other, thereby casting credibility issues on his claim to have continuously resided in the United States in an unlawful status from before January 1, 1982 through May 4, 1988. As such, the director denied the application.

On appeal, the applicant asserts that the director's decision is incorrect as he has only filed one Form I-687 application. The applicant claims that he is a victim of identity theft.

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. Section 1104(c)(2)(B)(i) of the LIFE Act; 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 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).

The director issued a Notice of Intent to Deny dated September 9, 2005, which advised the applicant that Citizenship and Immigration Services (CIS) records reflect that he had filed two separate Form I-687 applications, and some of the information namely, his claims of residence, employment and absences from the United States contradicted each other. The applicant was further advised that the contradictory

applications could not be reconciled and, therefore, eliminated any probative value of his testimony or documentation.

On the Form I-687 application signed May 17, 1990,<sup>1</sup> the applicant claimed the following:

- An illegal entry into the United States in December 1981 through Tijuana, Mexico.
- Residences in Los Angeles, California throughout the requisite period.
- Employment in Glendale, California from December 1981 to February 1988.
- Claimed an absence from the United States from July 5, 1987, to August 12, 1987, to visit his parents in Bangladesh.
- Listed his parents as [REDACTED] and [REDACTED]
- Listed his place and date of birth in Barisal, Bangladesh on May 4, 1963.
- Listed his siblings as [REDACTED] and [REDACTED]
- Listed his wife as Lovely and his son as [REDACTED]
- Listed his last address outside of the United States as [REDACTED], Barisal, Bangladesh.

On the Form I-687 application signed on August 12, 1991, the applicant claimed the following:

- Entry with a B-2 nonimmigrant visa in January 1981 and April 1982.
- Residences in Bronx and Brooklyn, New York throughout the requisite period commencing April 1981.
- Employment in Brooklyn, New York since March 1981.
- An absence from the United States from March 1982 to April 1982, to visit his sick father in Bangladesh.
- Listed his parents as [REDACTED] and [REDACTED]
- Listed his place and date of birth in Barisal, Bangladesh on May 4, 1963.
- Listed his siblings as [REDACTED] and [REDACTED]
- Listed his last address outside of the United States as [REDACTED], Barisal, Bangladesh.

Counsel, in response, asserted that the director's notice was in error as the applicant had never filed two Form I-687s; the applicant filed only one Form I-687 on or about August 12, 1991. Counsel indicated that the applicant "has been victimized due to no fault of his."

The director, in considering counsel's statement, re-examined both Form I-687 applications and concluded that no error had been made. The director determined that both applications pertained to the same individual as the date of birth, country of citizenship, siblings' names, last address outside of the United States and signatures on each application were identical. Accordingly, the director denied the application on March 24, 2006.

A review of the record reveals additional contradictions between the Form I-687 application signed on May 17, 1990, and other documentation in the record. Along with his Form I-485 application, the applicant submitted a copy of his passport, which was issued at the Bangladesh Consulate General in New York on June 12, 1990. The passport listed his current address as [REDACTED], Los Angeles, California. This address was listed as a place of residence during the requisite period on the Form I-687

---

<sup>1</sup> This application was assigned alien registration number [REDACTED]

application, the applicant adamantly claimed to have not filed. This address was also listed on a Form G-28, Notice of Entry of Appearance as Attorney or Representative signed by the applicant and his former counsel on May 17, 1990.

Doubt cast on any aspect of an applicant's proof 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. *Matter of Ho*, 19 I. & N. Dec. 582 (BIA 1988). Accordingly, the unsupported statements of counsel and the applicant do not constitute competent objective evidence.

Given the credibility issues arising from the documentation provided by the applicant, it is determined that the applicant has not met his burden of proof. The applicant has not established, by a preponderance of the evidence, that he entered the United States before January 1, 1982 and resided in this country in an unlawful status continuously from before January 1, 1982 through May 4, 1988, as required under 1104(c)(2)(B)(i) of the LIFE Act and 8 C.F.R. § 245a.11(b). Given this, the applicant is ineligible for permanent resident status under section 1104 of the LIFE Act.

Beyond the decision of the director, it must be noted that the applicant indicated on his Form G-325A, Biographic Information, to have been married in Bangladesh on May 26, 1985. The applicant; however, did not disclose this absence on either Form I-687 application. The applicant's significant omission of this fact, is a strong indication that the applicant was either not in the United States during this period or may have been outside the United States beyond the period of time allowed by regulation. As the appeal will be dismissed on the grounds discussed above, this issue need not be examined further.

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