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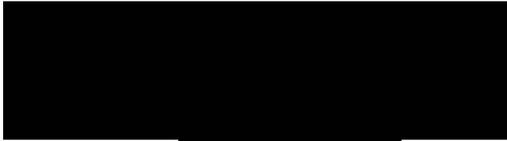
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U.S. Citizenship  
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FILE: [REDACTED]  
MSC 02 252 62092

Office: LOS ANGELES

Date: **SEP 02 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:

SELF-REPRESENTED

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:** On January 25, 2007, the District Director, Los Angeles, denied the application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application, finding that the applicant did not establish, by a preponderance of the evidence that he entered the United States before January 1, 1982, and resided continuously in the United States, prior to January 1, 1982, and through May 4, 1988. In a September 21, 2006, Notice of Intent to Deny (NOID), the director referred specifically to two affidavits indicating knowledge of the applicant's presence in the United States from 1987 and 1988. The director noted that the applicant submitted a sworn statement and testified under oath on March 16, 1996, that he entered the United States illegally in 1981 and that thereafter, he lived part of each year in Mexico. The director stated that the applicant testified that he lived about six months in the United States and six months in Mexico each year. In response to the NOID, the applicant submitted a rebuttal statement, indicating that he has resided permanently in the United States since 1980 and that his 1996 testimony was misunderstood due to a language barrier. He also submitted four affidavits and a letter from the Los Osos Literacy Council. The director found that the affidavits submitted in rebuttal to the NOID were insufficiently detailed. The director also found that the applicant's testimony regarding the physical presence of his wife and the birth of his children was inconsistent. The applicant had indicated that his wife began residing in the United States in 1981, but the director noted that two of the applicant's children were born in Mexico in 1984 and 1985. The director concluded that the applicant's rebuttal failed to overcome the grounds for denial set forth in the NOID.

On appeal, the applicant submits previously submitted documents and a letter dated February 13, 2007, from [REDACTED] of Community Health Centers in Nipomo, California, which indicates that the applicant had been seen at that office for depression for several months, had been treated with an antidepressant, and had complained of poor memory.

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 § 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 period, 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 states 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 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 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). *See* 8 C.F.R. § 245a.15(b). 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). **Affidavits indicating specific, personal knowledge of the applicant’s whereabouts during the relevant time period are given greater weight than fill-in-the-blank affidavits providing generic information.**

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.

The record reflects that on June 9, 2002, the applicant submitted the current application. On January 27, 2006, the applicant appeared for an interview based on the application. In the course of his interview, the applicant signed a sworn statement indicating that he first entered the United States near San Ysidro, California, in 1981 and that after he entered, he went to Bonita, California and lived there for three to six months. He indicated that he then went back to Mexico for four to six months, although it was difficult for him to remember exactly when, since it was so long ago. He indicated that after that, he entered again near San Ysidro and stayed at a ranch in Bonita for about six months, then returned to Mexico for about six months, spending six months in Mexico and six months in the United States until about 1986. He stated that in 1987 he moved to San Luis Obispo and stayed there until the present.

The issue in this proceeding is whether the applicant has furnished sufficient credible evidence to meet his burden of establishing by a preponderance of the evidence, that his claim of entry into the United States before January 1, 1982, and continuous residence in the United States during the requisite period is probably true. Upon 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.

The record of proceeding contains the following evidence relating to the requisite period:

Letters and Affidavits

- Notarized, nearly identical statements, all dated September 18, 2006, from five of the applicant's friends and acquaintances, [REDACTED], and [REDACTED] and [REDACTED]. All of the affiants attest that they have known the applicant since 1981, when he was working in the San Diego area, and that he later moved to Los Osos, California. They all provide their current addresses and telephone numbers and indicate that they are willing to testify to their statements. Mr. and Mrs. [REDACTED] indicate that they met the applicant when his girlfriend was living with them. Mr. [REDACTED] indicates that he lived with the applicant in San Diego and that they later moved to Los Osos. Mr. [REDACTED] indicates that he and the applicant worked together in agriculture in 1981. These statements can be given minimal evidentiary weight and have minimal probative value as evidence of the applicant's residence and presence in the United States for the requisite period, as they all lack sufficient detail. Regarding the applicant's claimed entry into the United States before January 1, 1982, there is no statement by anyone who claims to have personal knowledge of such entry. None of the affiants provides specific dates of when they met the applicant. None of them provides any specific details of the circumstances of the applicant's residence in the United States;
- An unnotarized letter dated June 24, 2003, from [REDACTED] who states that he has known the applicant since 1987 when they met while [REDACTED] was working as a shipwright in San Luis Obispo County. [REDACTED] states that he would run into the applicant on different jobs as he was sanding and painting for various individuals. He states that he was so impressed with his work that he asked the applicant to help him on several of his own projects. He states that he and his wife have come to know the applicant and his family very well and that they have very high values and are a joy to know. [REDACTED] indicates that he met the applicant in 1987 but does not indicate how long thereafter, how often, and under what circumstances he saw the applicant. Thus, this letter can be given minimal weight as evidence of the applicant's continuous residence in the United States. In addition, this letter can only be used to show that the applicant was physically present in 1987 when [REDACTED] met the applicant, and does not cover the period prior to January 1, 1982, through 1987.

As stated previously, the evidence must be evaluated not by the quantity of evidence alone but by its quality. Although not required, none of the affidavits included any supporting documentation of the affiant's presence in the United States during the requisite period. Furthermore, while the applicant has submitted numerous affidavits in support of his application, he has not provided any contemporaneous evidence of residence in the United States during the duration of the requisite period.

The record of proceedings contains other documents, including a 2002 Internal Revenue Service (IRS) Form 1040A U.S. Individual Income Tax Return, IRS Forms W-2 for the years 1991 through 2004, a letter dated February 13, 2007, from [REDACTED] of Community Health Centers, attesting that the applicant has been seen in that office for depression for several months and was complaining of poor memory, and a letter dated September 26, 2006, from the Literacy Council, attesting that the applicant was a student at the Los Osos Literacy Center during 1992 and 1993. None of this evidence addresses the applicant's qualifying residence or physical presence during the eligibility period in question, specifically from before January 1, 1982, through May 4, 1988.

The remaining evidence in the record is comprised of the applicant's statements and application forms, in which he claims to have first entered the United States on May 7, 1981, near San Isidro, California, and to have resided for the duration of the requisite period in California. As noted above, to meet his burden of proof, the applicant must provide evidence of eligibility apart from his own testimony. The applicant has failed to do so. In this case, his assertions regarding his entry are not supported by any credible evidence in the record.

Having examined each piece of evidence, both individually and within the context of the totality of the evidence, the AAO finds that the applicant has not shown by a preponderance of the evidence he entered into the United States before January 1, 1982, and that he resided continuously in an unlawful status for the requisite period.

The absence of sufficiently detailed and probative documentation to corroborate the applicant's claim of entry and continuous residence for the entire requisite period, detracts from the credibility of his claim. 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 applicant's reliance on affidavits alone, which lack relevant details, and the lack of any probative evidence of his entry and residence in the United States from prior to January 1, 1982 and for the years 1982 and 1983, the applicant has failed to establish by a preponderance of the evidence that he maintained continuous, unlawful residence in the United States 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.