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**U.S. Citizenship
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FILE: [REDACTED] Office: NEW YORK
MSC 02 085 65916

Date: **SEP 22 2008**

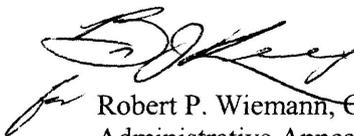
IN RE: Applicant: [REDACTED]

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.


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 had not established that he resided in the United States in a continuous unlawful status from before January 1, 1982 through May 4, 1988, as required by section 1104(c)(2)(B) of the LIFE Act.

On appeal, the applicant states that he has submitted sufficient credible evidence, however the director failed to adequately consider the evidence. The applicant does not submit 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.

The applicant also submitted a letter of employment from [REDACTED] of DECOPEN Enterprise, located at [REDACTED]. The August 7, 1991 letter states that the applicant had been employed as a sales assistant from May 8, 1986 to August 1990.

It is noted however, that the letters are not on original company letterhead, and failed to show periods of layoff, 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 8 C.F.R. § 245a.2(d)(3)(i).

Affidavits and letters

The applicant submitted the following:

- 1) An affidavit from [REDACTED] notarized on October 9, 1991, stating that the applicant shared an apartment with her at [REDACTED] from March 1984 to September 1985. The affiant also states that the apartment's lease, receipts, and utility bills were in her name, and the applicant paid his share of the bills. [REDACTED], however, does not indicate whether the applicant resided in the United States throughout the requisite period.
- 2) A letter from [REDACTED] General Secretary of Bangladesh Society, Inc., located at [REDACTED]. The October 5, 1990 letter which was notarized on October 8, 1991, states that the applicant has been a member of the organization since 1981.
- 3) A notarized undated letter from [REDACTED] stating that the applicant was her neighbor while he resided at [REDACTED] from 1983 to 1984. Ms. [REDACTED] however, does not specify when in 1983 the claimed residence began and when it ended in 1984.
- 4) A letter from [REDACTED], notarized on April 25, 1991, stating that he has known the applicant since 1980. [REDACTED] also states that from 1980 to 1990 the applicant resided at [REDACTED].
- 5) A letter from [REDACTED] notarized on September 16, 1991, stating that the applicant resided, as a tenant, at his apartment building located at [REDACTED] from August 1980 to February 1984, and from October 1985 to January 1990.

In addition, the applicant submitted eight mail envelopes addressed to him at [REDACTED] six with Bangladesh postmarks: December 21, 1981, March 22, 1986, June 7, 1987, July 2, 1982, March 13, 1983, December 17, 1985; and, two have 1991 U.S. postmarks.

It is noted that none of the affiants state how they dated their acquaintance with the applicant, or how frequently and under what circumstances they met the applicant. 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 affiants included any supporting documentation of the affiant's presence in the United States during the requisite period. Pursuant to 8 C.F.R. § 245a.2(d)(5), the inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification.

Contrary to the applicant's assertion, he has failed to submit sufficient credible evidence to establish his continuous residence in the United States during the requisite period. The applicant claims that due to his immigration status he is unable to submit primary documentation in support of his application. It is noted, however, that the applicant submitted a letter from ██████████ General Secretary of Bangladesh Society, Inc., stating that the applicant has been a member of the organization since 1981. ██████████, however, does not provide any supporting documentation whatsoever which supports the claimed membership of the applicant. It is reasonable to expect that the applicant would be able to provide supporting documentation from the Bangladesh Society, Inc., if he has been a member since 1981 as he claims, in that obtaining such membership documentation would not be based on the applicant's immigration status. This casts doubts on whether the applicant's claimed membership in the Bangladesh Society, Inc., since 1981, is true.

Also, the applicant submitted affidavits which are inconsistent. The affidavit from ██████████ states that applicant shared an apartment with her at ██████████ from March 1984 to September 1985; and, ██████████ states in her affidavit that the applicant resided at ██████████ from 1983 to 1984. However, the affidavit from ██████████ contradicts the affidavits from ██████████, as Mr. ██████████ states that from 1980 to 1990 the applicant resided at ██████████ New York. These inconsistencies in the applicant's claimed residence bring into question whether the applicant resided in the United States since prior to January 1, 1982 as he claims.

The above unresolved discrepancies cast considerable doubt on whether the applicant's claim that he entered the United States before January 1, 1982, and resided continuously in an unlawful status in the United States from prior to January 1, 1982, through May 4, 1988, is true. 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). Therefore, the reliability of the remaining evidence offered by the applicant 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.

The applicant has, therefore, failed to establish that he resided in a continuous unlawful status in the United States from before January 1, 1982 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.