



U.S. Citizenship
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[Redacted]

FILE: [Redacted]
MSC-03-001-60491

Office: CHERRY HILL

Date: **APR 03 2009**

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:

[Redacted]

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.

John F. Grissom
Acting 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 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. Specifically, the director noted that the applicant submitted affidavits in support of this application, however, none of the affiants indicated that they had direct, personal knowledge of the applicant's continuous residency for the duration of the requisite period. The director also noted that the applicant failed to establish that he made a timely written claim for class membership. This issue was raised in the Notice of Intent to Deny (NOID) issued to the applicant on August 12, 2003. However, the director treated the applicant as a class member by adjudicating the case on its merits.

The director further noted that the applicant previously filed a Form I-687 application on October 8, 1990. In conjunction with that application, the applicant applied for an employment authorization card (I-688A). The applicant was subsequently identified by United States Citizenship and Immigration Services (USCIS) as procuring the I-688A through the payment of a bribe to the Salinas Chief Legalization Officer while he was working undercover in "Operation Catchhold." As a result, the applicant was issued a Notice of Intent to Revoke status on December 18, 1996. The applicant responded to the Notice on January 6, 1997. On March 26, 1997 the applicant was informed that his status was revoked. Accordingly, the director denied the application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act on August 25, 2004.

On appeal, the applicant asserts that he has established his unlawful residence for the requisite time period, and he submits additional affidavits of continuous residency. He fails to submit any additional evidence of class membership.

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 under the provisions of section 212(a) of the Act, 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).

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. 8 C.F.R. § 245a.2(d)(3)(vi)(L).

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 petitioner 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 petitioner 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 or petition.

In addition to the grounds for denial noted previously, the applicant has failed to provide sufficient credible evidence of his continuous residency for the duration of the relevant period. Specifically, the documentation that the applicant submits in support of his claim to have arrived in the United States before January 1982 and lived in an unlawful status during the requisite period consists of six affidavits and letters from the following individuals:

██████████ and ██████████

Only one of the affiants, ██████████ attests that he has direct personal knowledge of the applicant’s entry to the United States prior to January 1, 1982. His affidavit is otherwise void of specific details that are probative of the issues in this application.

The remaining affiants do not indicate how they date their initial meeting with the applicant, how frequently they had contact with the applicant, or how they had personal knowledge of the applicant’s presence in the United States. Further, the affiants do not provide information regarding where the applicant lived during the requisite period. Given these deficiencies, these affidavits have minimal probative value in supporting the applicant's claims that he entered the United States prior to January 1, 1982 and resided in the United States for the entire requisite period.

Beyond the decision of the director, the applicant is inadmissible under Section 212(a)(6)(C)(i) of the Act, 8 U.S.C. §1182 (a)(6)(C)(i), because he was identified by United States Citizenship and Immigration Services (USCIS) as procuring a work authorization card and seeking to establish class membership through the payment of a bribe to a Salinas Chief Legalization Officer. Section 245A(a)(4)(A) of the Act, 8 U.S.C. § 1255(a)(4)(A) requires an alien to establish that he is admissible as an immigrant to the United States. This ground of inadmissibility is waivable.

The absence of sufficiently detailed documentation to corroborate the applicant’s claim of continuous residence for the entire requisite period detracts from the credibility of his claim.

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.

Given the applicant's reliance upon documents with minimal probative value and the previously noted class membership and fraud issues, it is concluded that he has failed to establish admissibility and continuous residence in an unlawful status in the United States from prior to January 1, 1982 through May 4, 1988 as required under section 1104(c)(2)(B) of the LIFE Act. The applicant is, therefore, ineligible for permanent resident status under section 1104 of the LIFE Act on this basis

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