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U.S. Department of Homeland Security  
U. S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
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U.S. Citizenship  
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FILE: [REDACTED]  
MSC 02 241 63864

Office: WEST PALM BEACH

Date: APR 20 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: 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.

A handwritten signature in black ink, appearing to read "J. Grissom".

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 Director, West Palm Beach, Florida, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The 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 asserts that he has submitted sufficient evidence to establish the requisite continuous residence. The applicant submitted 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.

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 July 21, 2005, the director stated that the applicant failed to submit sufficient evidence demonstrating his continuous unlawful residence in the United States during the requisite period. The director granted the applicant thirty (30) days to submit additional evidence.

In the Notice of Decision, dated August 23, 2005, the director denied the instant application based on the reasons stated in the NOID. The director noted that the applicant failed to provide additional evidence.

The issue in this proceeding is whether the applicant has furnished sufficient credible evidence to demonstrate that he continuously resided in the United States in an unlawful status during the requisite period. The applicant submitted evidence, including letters and affidavits as evidence to support his Form I-485 application. The AAO has reviewed the entire record. Here, the submitted evidence is neither probative, nor credible.

#### Affidavits & Letters

The applicant submitted the following:

1. An affidavit from [REDACTED], attesting that he met the applicant at Ft. Pierce beach in May 1982, and since then they have been friends. [REDACTED], however, does not indicate how frequently or under what circumstances he has had contact with the applicant since that time. The affiant also does not indicate whether the applicant has been a continuous resident in the United States since that time.
2. Two affidavits from [REDACTED] notarized on April 17, 1991, and May 21, 2002, respectively. [REDACTED] attests that the applicant who is his son entered the United States in 1981. [REDACTED] also states in his April 17, 1991 affidavit that the applicant started finding work in 1982. The affiant attests that he had supported the applicant until he was able to provide for himself, but he does not provide any details as to the nature of the support provided, such as when the support was provided to the applicant. The affiant also does not provide any additional information to indicate whether the applicant had been a continuous residence since 1981.

3. Two affidavits from [REDACTED] dated March 10, 1991, and May 21, 2002, attesting that he first met the applicant in the United States in 1986. The affiant, however, does not provide any additional details to indicate whether the applicant has been a continuous resident since their acquaintance in 1986.
4. An affidavit from [REDACTED], attesting that he first met the applicant on May 18, 1986, at a Haitian Flag celebration event at Ft. Pierce Elementary School.
5. An affidavit from [REDACTED] attesting that the applicant had been living in his neighborhood in 1983. [REDACTED] also attests that the applicant moved to a different neighborhood, but does not indicate during what period. Also, the affiant does not indicate how he dates his acquaintance with the applicant and whether the applicant has been a continuous resident in the United States since their acquaintance in 1983.
6. An affidavit from [REDACTED] attesting that he has known the applicant since 1985 when they met at a wedding, and they have been friends ever since. The affiant, however, does not indicate whether he became acquainted with the applicant in the United States, and whether the applicant has been a continuous resident in the United States since their acquaintance in 1983.

Contrary to the applicant's assertion, as discussed above, the affidavits provided by the applicant in an attempt to establish his continuous residence are lacking in essential details. Therefore, these affidavits, individually, and cumulatively, are not probative as to the applicant's continuous residence throughout the requisite period.

In addition, the applicant has provided questionable documentation. For example, [REDACTED] attests that he became acquainted with the applicant on May 18, 1986, and about three weeks after they became acquainted the applicant departed the United States, for Haiti, to visit his sick mother, and returned a few weeks later. However, the applicant indicated on his Form I-687 application, signed on April 8, 1991, that since his last entry he had departed United States once, in December 1982, and returned also in December 1982. There is no indication in the record that the applicant had any other departures, such as a departure in 1986, as stated by [REDACTED] in his affidavit.

In addition, the applicant claims that he has resided in the United States since April 1981, and he has submitted several affidavits in support of his claim. However, the applicant indicated on his Biographic Information Form G-325A, dated May 21, 2002, that he resided in Haiti from 1982 to 1996.

These discrepancies cast considerable doubts on the applicant's claim that he has resided continuously in the United States since prior to January 1, 1982, and on whether the affidavits provided by the applicant are genuine. 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). The applicant has failed to submit any objective evidence to explain or justify the discrepancies in the

record. 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.

Therefore, based on the above, 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.

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