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U.S. Citizenship and Immigration Services
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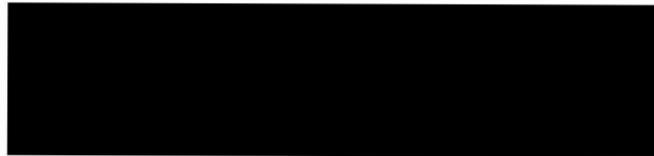
Applicant:



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).

IN 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.

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, Dallas, Texas, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application because the applicant had not demonstrated that he had continuously resided in the United States in an unlawful status from before January 1, 1982, through May 4, 1988.

On appeal, counsel asserts that the applicant has submitted sufficient evidence to establish his continuous residence in the United States during the requisite period.

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. Section 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 periods, is admissible to the United States under the provisions of section 212(a) of the Immigration and Nationality Act (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).

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 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. Here, the applicant has failed to meet this burden.

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 an attempt to establish continuous unlawful residence since before January 1, 1982, through May 4, 1988, the applicant provided the following evidence:

- An affidavit from [REDACTED] who attested to the applicant's residences from May 1982 to December 1987 in Dallas, Texas and from December 1987 to July 1988 in Ontario, California. The affiant asserted that he was a roommate when the applicant resided in Texas.
- An affidavit from [REDACTED] who indicated she had resided in Texas since 1985 and met the applicant through her fiancé.
- Affidavits from [REDACTED] and [REDACTED] who indicated that they have known the applicant since 1981. [REDACTED] indicated the applicant had been a dedicated employee since 1986 and that "he work at the Radisson Hotel & Suites since it opened in the same year under the name of [REDACTED]."
- A statement dated July 15, 1993, from [REDACTED] who indicated that he has known the applicant since November 1981.
- An affidavit from [REDACTED] who indicated that the applicant was in her employ from June 1986 to January 1990.
- An affidavit from [REDACTED] who attested to the applicant's employment under the alias [REDACTED] as a houseman at [REDACTED] from June 1984 to July 1986. The affiant indicated he was the applicant's supervisor during the period.
- An affidavit from [REDACTED] who indicated that he met the applicant in 1981 with his grandfather, who used to do odd jobs for him.
- An affidavit from [REDACTED] who indicated that the applicant was in his employ part-time from June 1984 to 1986. [REDACTED] indicated that the applicant was residing at [REDACTED] Dallas, Texas during his employment and company records do not exist.
- An affidavit from [REDACTED] who indicated that she met the applicant in Dallas, Texas in May 1981. The affiant asserted that the applicant and his grandfather resided at her home at [REDACTED] Dallas, Texas from May 1981 to December 1986. The affiant asserted that the applicant's grandfather returned to Mexico in 1985 and passed away in 1987. The affiant asserted that the applicant continued to reside with her until 1992. The affiant asserted that at the age of 14, the applicant began working with her

brother-in-law, [REDACTED], at [REDACTED] under the alias [REDACTED] until 1986. The affiant asserted that the applicant also worked for [REDACTED]

On March 21, 2007, the director issued a Notice of Intent to Deny, which advised the applicant that the affidavits submitted did not contain sufficient objective evidence to which they could be compared to determine whether the attestations were credible, plausible, or internally consistent with the record. The applicant was also advised: 1) of the director's attempts to contact [REDACTED] however, no one answered the telephone; 2) of the director's contact with [REDACTED] who stated that the applicant did not work for him in 1984; 3) of the director's attempt to contact [REDACTED], but the affiant did not return the telephone call; 3) [REDACTED] attesting to the applicant's employment, but failed to state the dates; 4) of the director's attempts to contact [REDACTED] and [REDACTED] but the telephone numbers provided were disconnected; 5) [REDACTED] did not reside at the telephone number provided; 6) of the director's contact with [REDACTED] who initially stated that he met the applicant in 1986, but later amended his statement to indicate he knew the applicant much earlier; and 7) of the director's contact with [REDACTED] who indicated that he remembered the applicant around the mid 1980's, but could not state the exact age of the applicant when they first met.

Counsel, in response, provided telephone numbers for [REDACTED] and [REDACTED]. Counsel asserted that the applicant was no longer in contact with [REDACTED] and provided a letter from [REDACTED] explaining the miscommunication between him and U.S. Citizenship and Immigration Services (USCIS). [REDACTED] in his letter asserted that his previous letter of July 27, 2004 was accurate. The affiant asserted, in pertinent part:

The telephone verification in March of this year was not clear to me after such a period of time. I understand your caller to state 1980 as a time frame. We were not in operation at that time. [The applicant] was in my employ from 1984 to 1986, and all information and recommendations are accurate.

The director, in denying the application, noted that on November 24, 2007, USCIS telephoned [REDACTED] and [REDACTED] and left a message, but neither affiant returned the call. [REDACTED] was also contacted, but was not specific as to the length of time she knew the applicant; she would only say "a long time" and that she met the applicant when he was 16 or 17. The director concluded that the applicant had not submitted credible evidence to establish his claimed residence.

On appeal, counsel submitted:

- An additional affidavit from [REDACTED] who indicated that he has known the applicant for many years and would appreciate a second chance to answer any questions. The affiant asserted that he had a different telephone number than the one that was presented by counsel.
- An additional affidavit from [REDACTED] who apologized "for not giving you all of the details and in some cases, wrong information during our conversation. The reason

for this is that I am a Chef and when the call was made, I was working the line and not able to give the conversation my full attention.”

The AAO does not view the documents discussed above as substantive enough to support a finding that the applicant continuously resided in the United States since before January 1, 1982, through May 4, 1988, as he has presented contradictory and inconsistent documents, which undermines his credibility.

The affidavits from [REDACTED] and [REDACTED] lack probative value as they failed to state the applicant’s place of residence, provide details regarding the nature or origin of their relationship with the applicant or the basis for their continuing awareness of the applicant’s residence.

[REDACTED] in his affidavit, attested to the applicant’s being employed at the Radisson Hotel & Suites since 1986. The applicant, however, did not claim on his Form I-687 application employment with this entity until 1991.

[REDACTED], in her affidavit, indicated that the applicant resided with her at [REDACTED] Texas, from May 1981 to December 1986. The applicant, however, claimed on his Form I-687 application to have resided at this address from May 1982.

The letters from [REDACTED] raise questions to their authenticity as the applicant did not claim on his Form I-687 application to have been employed by the affiant during the requisite period.

The affidavit from [REDACTED] raises questions to its authenticity as he claimed that the applicant worked under the alias [REDACTED] while employed at [REDACTED]. The applicant; however, did not claim on his Form I-687 application to have used or be known by another name.

The employment affidavits from [REDACTED] and [REDACTED] failed to include the applicant’s address at the time of employment as required under 8 C.F.R. § 245a.2(d)(3)(i). Under the same regulations, the affiants also failed to 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 applicant claimed on his Form I-687 application that he was residing in Ontario, California from December 1987 to July 1988, but provided no credible evidence to support his claim.

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).

Given the numerous 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.

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