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U.S. Citizenship
and Immigration
Services

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FILE: [Redacted]
MSC 02 225 64181

Office: LOS ANGELES

Date: FEB 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:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has been returned to the office that originally decided your case. If your appeal was sustained, or if your case 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 "John F. Grissom".

John F. Grissom, Acting Chief
Administrative Appeals Office

DISCUSSION: On January 25, 2006, the 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 had not established by a preponderance of the evidence that he had entered the United States before January 1, 1982, and that he had continuously resided in the United States in an unlawful status for the duration of the requisite period. The director found inconsistencies in the record regarding the applicant's place of residence during the statutory period.

On appeal, counsel for the applicant asserts that affidavits alone are sufficient evidence of continuous residence or presence. Counsel asserts that the director made errors in considering all the documents the applicant submitted. Counsel did not address the inconsistencies referred to by the director regarding the applicant's place of residence.

An applicant for permanent resident status under section 1104 of the LIFE Act has the burden to establish by a preponderance of the evidence 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 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 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 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). To meet his or her burden of proof, an applicant must provide evidence of eligibility apart from his or her own testimony. 8 C.F.R. 245a.12(f). Affidavits that indicate specific, personal knowledge of the applicant's whereabouts during the relevant time period are given greater weight than fill-in-the-blank affidavits that provide 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.

A LIFE Legalization applicant must also provide evidence establishing that, before October 1, 2000, he or she was a class member applicant in a legalization class-action lawsuit. See 8 C.F.R. 245a.14. In this case, the record reflects that the applicant applied for such class membership by submitting a "Form for Determination of Class Membership in CSS v. Meese [CSS lawsuit]," accompanied by a Form I-687 "Application for Status as a Temporary Resident (Under Section 245A of the Immigration and Nationality Act)," dated December 10, 1990.

On May 13, 2002, the applicant submitted the current Form I-485, Application to Register Permanent Residence or Adjust Status. On August 1, 2005, the applicant appeared for an interview based on the application.

The issue in this proceeding is whether the applicant has furnished sufficient credible evidence to meet his burden and establish 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.

The documentation that the applicant submits in support of his claim consists of statements from friends or acquaintances, two residential leases, and several handwritten rent receipts.

The leases dated January 1, 1981, and October 1, 1985, and corresponding handwritten receipts can be given minimal weight as evidence of the applicant's continuous residence in the United States during the required period because the information contained in them cannot be verified. Neither the lease nor the receipts is accompanied by a letter from a landlord and neither contains contact information for the landlord or the management company. Furthermore, as the director noted, the record contains discrepancies regarding the applicant's address during the statutory period that the applicant has not responded to. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). The applicant has not explained why the employment verification letter from Bahama Spa lists a different address for him than the

address contained in the lease he submitted, and has not submitted competent objective evidence pointing to where the truth lies.

The two fill-in-the-blank "Affidavit" forms signed by [REDACTED] and [REDACTED] can be given minimal weight as evidence. The form indicates that the affiant has personal knowledge that the applicant has resided in the United States at several addresses in California. The form allows the affiant to fill in a statement that he or she "is able to determine the date of the beginning of his or her acquaintance with the applicant in the United States from the following fact(s): ____." Both affiants added the identical brief statement: "We met by a mutual friend."

These affidavits, prepared on a fill-in-the-blank form, contain minimal details regarding any relationship with the applicant during the requisite period. The affiants all fail to indicate any personal knowledge of the applicant's claimed entry to the United States or of the circumstances of his residence other than the cities where he resided. Lacking such relevant detail, the affidavits can be afforded only minimal weight as evidence of the applicant's residence in the United States for the requisite period.

The affidavits from [REDACTED] and [REDACTED] can also be afforded only minimal weight as evidence of the applicant's residence in the United States for the requisite period as they are insufficiently detailed. [REDACTED] states that she met the applicant "sometime in 1982" when he came into her grocery store to buy groceries. [REDACTED] states that he met the applicant when he came to look for work, but that he did not have an opening. Neither [REDACTED] nor [REDACTED] indicates any personal knowledge of the applicant's claimed entry to the United States or of the circumstances of his residence other than the cities where he resided. As such, the affidavits can be afforded only minimal weight as evidence of the applicant's residence in the United States for the requisite period.

The employment verification affidavit from [REDACTED] can be given minimal evidentiary weight as it fails to comply with the regulatory requirements at 8 C.F.R. § 245a.2(d)(3)(i). Specifically, the statement does not provide the applicant's address at the time of employment, any periods of layoff, declare whether the information was taken from company records, or 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 addition, the letter contains information regarding the applicant's place of residence inconsistent with other documents in the record.

Although 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. 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. None of the affiants indicated how they dated their acquaintance with the applicant, how they met the applicant, or, how frequently they saw the applicant.

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 in June 1981 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.'

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.

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, the applicant has failed to establish continuous residence in an unlawful status in the United States for the requisite period, as required under both 8 C.F.R. § 245a.2(d)(5) and *Matter of E- M--*, *supra*.

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.