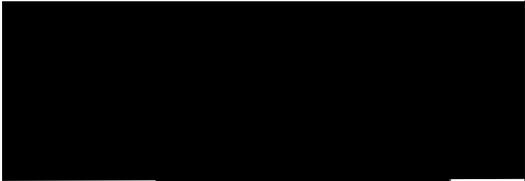


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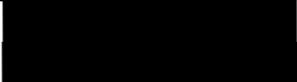
U.S. Citizenship
and Immigration
Services

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FILE:



MSC 01 331 62157

Office: GARDEN CITY

Date:

FEB 27 2009

IN RE: 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).

ON BEHALF OF APPLICANT:



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 "John F. 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, Garden City, New York, 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 submits 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 November 25, 2007, 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 noted that the affidavits submitted were neither credible nor verifiable. The director granted the applicant thirty (30) days to submit additional evidence.

In the Notice of Decision, dated January 10, 2008, the director denied the instant application based on the reasons stated in the NOID. The director noted that the applicant failed to submit additional evidence in response to the NOID.

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.

Employment Letters

The applicant submitted letters of employment, from I [REDACTED] located at [REDACTED] [REDACTED] stating that the applicant has been employed as a crew member since 1987; and, from [REDACTED]s, located at [REDACTED]e, Brooklyn, NY, stating that the applicant had been employed as a Cashier from 1980 to 1987. These letters, however, are not probative as the signatures are illegible and it cannot be determined who signed any of the letters or in what capacity.

It is also noted that the letters do not provide the applicant's address at the time of employment. Also, the letters 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). The letters are, therefore, not probative as they do not conform to the regulatory requirements.

Affidavits & Letters

The applicant submitted the following:

1. An affidavit from [REDACTED] stating that she has known the applicant since 1982. [REDACTED] also states that she and applicant are members of the Sikh Cultural Society, Inc., [REDACTED], and attends social events with the applicant. The affiant, however, does not indicate when and where in 1982 she first became acquainted with the applicant. Also, the affiant does not indicate how frequently she has had contact with the applicant since that time.
2. Two affidavits from [REDACTED] October 1, 2007, and January 28, 2008. In his first affidavit, [REDACTED] states that he has known the applicant to have resided in the United States since 1980. In his second affidavit [REDACTED] states that he has known the applicant since 1975 in India. [REDACTED] however, does not indicate, in his second affidavit, when he became acquainted with the applicant in the United States; and, he does not specify, in any of his affidavits, whether and how he maintained contact with the applicant in the United States during the requisite period.
3. An affidavit from [REDACTED] stating that he has known the applicant since 1986. The affiant also states that "to the best of his knowledge" that the applicant has been residing in the United States since 1980. [REDACTED], however, does not indicate the basis of his knowledge of the applicant's residence since 1980. Also, [REDACTED] does not indicate how he dates his acquaintance with the applicant, nor does he specify when in 1986 his acquaintance with the applicant began, and whether and how he maintained contact with the applicant since 1986.
4. An affidavit from [REDACTED] stating that the applicant resided with him at [REDACTED] [REDACTED] from 1980 to 1987. [REDACTED] however, does not provide any details pertaining to their relationship.

The record of proceedings also contains a letter from [REDACTED], of the [REDACTED], Inc., located at [REDACTED] Glen Rock, NJ 07452, stating that the Chairman of the organization, [REDACTED], has known the applicant since prior to 1981 because the applicant used to come there to prayer. The regulation at 8 C.F.R. § 245a.2(d)(3)(v) provides requirements for attestations made on behalf of an applicant by churches, unions, or other organizations. Attestations must: (1) Identify applicant by name; (2) be signed by an official (whose title is shown); (3) show inclusive dates of membership; (4) state the address where applicant resided during membership period; (5) include the seal of the organization impressed on the letter or the letterhead of the organization, if the organization has letterhead stationery; (6) establish how the author knows the applicant; and (7) establish the origin of the information being attested to.

The letter from the [REDACTED], does not comply with the above cited regulations because it does not: state the address where the applicant resided during attendance ...(membership)

... period; establish in detail that the author knows the applicant and has personal knowledge of the applicant's whereabouts during the requisite period; establish the origin of the information being attested to; and, that attendance (membership) records were referenced or otherwise specifically state the origin of the information being attested to. For this reason, the letter is not deemed probative and is of little evidentiary value.

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

It is also noted the applicant has not provided any reliable detailed documents, such as employment records which pertain to the requisite period. The absence of sufficiently detailed documentation to corroborate the applicant's claim of continuous residence for the entire requisite period seriously 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, it is concluded that he has failed to establish continuous residence in an unlawful status in the United States from prior to January 1, 1982, through May 4, 1988.

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.