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U.S. Citizenship  
and Immigration  
Services

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FILE: MSC 02 098 60804

Office: GARDEN CITY

Date: **JAN 30 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).

IN BEHALF OF APPLICANT: Self-represented

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, Garden City, New York, 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, the applicant asserts because English was not his primary language, the individual who prepared his application and legalization questionnaire wrote the addresses incorrectly. The applicant states that he has never resided in the state of California.

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. Section 1104(c)(2)(B)(i) of the LIFE Act; 8 C.F.R. § 245a.11(b).

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.

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.

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.

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] of Woodbridge, Virginia, who indicated that the applicant resided with him in Woodbridge at [REDACTED] from July 1981 to July 1984. The affiant asserted that the rent receipts were in his name and the applicant contributed towards the payment of the rent bills.
- An affidavit from [REDACTED] of Alexandria, Virginia, who indicated that the applicant resided with him in Alexandria at [REDACTED] from February 1984 to August 1987. The affiant asserted that the rent receipts were in his name and the applicant contributed towards the payment of the rent bills.
- A photocopy of a lease agreement purportedly entered into between the applicant and [REDACTED] for one year beginning August 30, 1986 for premises at [REDACTED], Alexandria, Virginia.
- A rent receipt dated January 1, 1987 for [REDACTED] for the period December 30, 1986 to January 30, 1987.
- An affidavit from [REDACTED] of [REDACTED] Falls Church, Virginia, who indicated that the applicant has resided with him in Falls Church since October 1987. The affiant asserted that the rent receipts were in his name and the applicant contributed towards the payment of the rent bills.
- An envelope with an indecipherable postmark addressed to the applicant at [REDACTED]
- A letter from [REDACTED], manager of [REDACTED] in Arlington, Virginia, who indicated that the applicant was employed as an "office cleaner person" from October 1981 to May 1986.
- A letter from [REDACTED], manager of [REDACTED] in Washington, D.C., who indicated that the applicant was employed as a construction worker from July 1986 to August 1987.
- A letter dated February 22, 1992, from [REDACTED] owner of [REDACTED] in Falls Church, Virginia, who indicated that the applicant has been in his employ as a stock keeper since November 1987.

- Affidavits from acquaintances, [REDACTED] and [REDACTED] of Brooklyn, New York, who indicated that they have known the applicant since 1981 in the United States. The affiants indicated that they had personal knowledge of the applicant's Virginia residences in Woodbridge (from July 1981 to July 1984), Alexandria (from February 1984 to August 1987) and Falls Church (from October 1987) during the requisite period.
- An unsigned receipt dated December 14, 1982, reflecting the applicant paid \$325.00 for Basic English Classes in Alexandria, Virginia.

On August 8, 2007, the director issued a Notice of Intent to Deny, which advised the applicant of his failure to submit evidence of his entry into Mexico in 1981. The applicant was also advised of inconsistencies between his applications, documents and testimony, which impacted the credibility of his claim to have resided in the United States during the requisite period. Specifically, on his Form I-687 application and Legalization Questionnaire submitted on October 7, 1990, the applicant listed his residence from June 1981 to October 1990 at [REDACTED], Yuba City, California and indicated that he traveled to Canada on August 10, 1987 and returned to the United States on October 16, 1987 without inspection. However, in another Form I-687 application and Legalization Questionnaire submitted on March 10, 1992, the applicant indicated that he departed the United States to Pakistan via Canada in September 1987 and reentered the United States on October 5, 1987 with a visa. The applicant claimed on this application residence in the state of Virginia from July 1981 to March 1992. The director further advised the applicant that the addresses, [REDACTED], Alexandria, Virginia and [REDACTED], Woodbridge, Virginia, did not exist and that the applicant claim to have resided in Alexandria and Woodbridge during the same time period of February and July 1984.

The applicant was granted 30 days in which to submit a response. The applicant, however, failed to respond to the notice and, accordingly, the director denied the application on September 15, 2007.

The statements issued by the applicant have been considered. However, the AAO does not view the documents discussed above as substantive enough to support a finding that the applicant entered the United States prior to January 1, 1982, and resided since that date through May 4, 1988, as he has presented contradictory and inconsistent documents, which undermines his credibility.

The employment letters 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.

[REDACTED] and [REDACTED] attested to the applicant's residence in Virginia since 1981. However, neither affiant provided any details regarding the nature of their relationship with the applicant or the basis for their continuing awareness of the applicant's residence.

Regarding the Form I-687 application submitted on October 7, 1990, the applicant, on appeal, asserts, "this information does not belong to me I declare under oath that I never lived in California and did not submit any application."

The applicant's assertion, however, is not supported by the record. The applicant's date of birth and his parents' and siblings' names are identical to the information listed on the Form I-687 application filed in March 1992. Along with the Form I-687 application filed on October 7, 1990,<sup>1</sup> the applicant submitted documents from [REDACTED] who indicated that he was the applicant's landlord and attested to the applicant's residence at [REDACTED] Yuba City from July 1981 to 1990. The affiant also indicated that he arranged for a ride for the applicant at the time he departed to Canada on August 10, 1987 and his return to the United States on September 16, 1987.

It is noted that on June 24, 1997, the District Director, San Francisco, California issued a Notice of Intent to Revoke for this application, which was based on a legacy Immigration and Naturalization Service investigation called Operation Catchhold. The notice advised the applicant that he had been identified as procuring his Form I-688A through the payment of a bribe to the Salinas Chief Legalization Officer, who was working undercover in Operation Catchhold. The applicant was further advised that Federal Bureau of Investigations had identified 22 brokers who paid bribes to the Chief Legalization Officer on behalf of 1,370 applicants and that the brokers had been prosecuted and convicted. The applicant was informed that his application, with bribe payment, was earmarked and segregated and he was issued a Form I-688A, employment authorization card in conjunction with the filing of his Form I-687 application. However, the issuance of the employment card was not indicative of the *Catholic Social Services* class membership.

The applicant was given 18 days to submit a rebuttal. The applicant, however, failed to respond to the notice and on August 11, 1997, the applicant's work authorization and class membership was revoked and the file was permanently closed.

Regarding the incorrect addresses, the applicant asserts that upon review of his application he "found that there are some typing/clerical mistakes are being made, because my primary language is not English so the person who typed it he wrote my address wrong." The applicant states the correct addresses should read [REDACTED] Alexandria, Virginia and [REDACTED] Woodbridge, Virginia.

The applicant's assertion that someone wrote the addresses incorrectly on his application is without merit. The Form I-687 application does not reflect that anyone other than the applicant completed the application, as no information is listed in items 48 and 50 of the application; items 48 and 50 of the application requests the name, address and signature of the person preparing the form. As conflicting statements have been provided, it is reasonable to expect an explanation from each affiant in order to resolve the contradictions. However, no statements from [REDACTED]

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<sup>1</sup> At the time this application was filed, the applicant was assigned alien registration number [REDACTED]. This application and supporting documents have been consolidated into [REDACTED].

and [REDACTED] have been submitted to resolve their contradicting affidavits or to corroborate the applicant's amended statement. As such, the affiants' affidavits have little probative value or evidentiary weight. Simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

Furthermore, the lease agreement raises questions to its authenticity as no explanation has been provided why the rent receipt and the lease agreement would contain an incorrect address and list the applicant's name. [REDACTED] in his affidavit, indicated that the applicant resided *with him*, the rent receipts were in his name and that the applicant only contributed to the payment of the rent bills.

These factors tend to establish that the applicant utilized documents in a fraudulent manner in an attempt to support his claim of residence in the United States during the requisite period. By engaging in such an action, the applicant has irreparably harmed his own credibility as well as the credibility of his claim of continuous residence in the United States for requisite period.

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 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.