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U.S. Department of Homeland Security  
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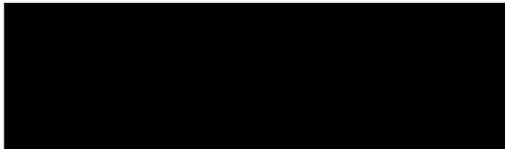
IN RE: Applicant:



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

The director denied the application after determining that 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 submits a brief and additional evidence stating that the applicant has established his eligibility for the immigration benefit sought and that the director's decision should be reversed.

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 through May 4, 1988. See § 1104(c)(2)(B) of the LIFE Act and 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 period, 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 states 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 petitioner 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 petitioner 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 or petition.

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 (1) entered the United States before January 1, 1982 and (2) has continuously resided in the United States in an unlawful status for the requisite period of time. The record contains the following evidence which is material to the applicant's claim:

- The applicant submitted witness statements from the following individuals in support of his application: [REDACTED] and [REDACTED]. All of the witnesses state generally that they know the applicant, and that the applicant has resided in the United States for all, or a portion of, the requisite period.

As stated previously, the evidence must be evaluated not by the quantity of evidence alone but by its quality. The witness statements of [REDACTED], and [REDACTED] do not provide detailed evidence establishing how the witnesses knew the applicant, the details of their association or relationship, or detailed accounts of an ongoing association establishing a relationship under which the witnesses could be reasonably expected to have personal knowledge of the applicant's residence, activities and whereabouts during the requisite period covered by the applicant's Form I-687. To be considered probative, witness statements must do more than simply state that a witness knows an applicant and that the applicant has lived in the United States for a specific time period. The statements must contain sufficient detail, generated by the asserted contact with the applicant, to establish that a relationship does in fact exist, how the relationship was established and sustained, and that the witness does, by virtue of that relationship, have knowledge of the facts asserted. The witness statements submitted by the applicant, therefore, are not deemed probative and are of little evidentiary value.

- [REDACTED] affidavit states that he has known the applicant since 1981 when the applicant worked at Kahn Mobil Service Station, and that he has personal knowledge that the applicant has continuously resided in the United States since June of 1981. [REDACTED] states that the applicant provided maintenance for his car, and that he occasionally employed the applicant to work on weekends on a cash basis because the applicant was undocumented. The affiant further states that he employed the applicant as a video editor from 1995 to 1997. The applicant stated on the Form I-687 that he was employed by the Kahn Mobil Service Station from 1981 – 1985. The affiant stated that he employed the applicant occasionally for weekend work, but does not state the nature of the work or the time period during which the work was performed. The affiant indicates that the applicant completed video editing certification in 1994, and that he then employed the affiant from 1995 – 1997. The affidavit does not establish that the affiant has sufficient knowledge of the applicant's activities and whereabouts from 1981 through the end of the requisite period. The statement is, therefore, not deemed probative and is of little evidentiary value.
- [REDACTED] provided an unsworn statement wherein he states that he first met the applicant in the fall/winter of 1981 while preparing for the priesthood. [REDACTED] states that he next saw the applicant in 1987 when the two saw each other on a city street and renewed their previous acquaintance. The witness states that he next saw the

applicant in 1998 and that he has seen him on practically a daily basis since that time. [REDACTED] does not claim, however, to have any knowledge of the applicant's whereabouts or activities from 1981 until 1987, almost the entire requisite period. The statement is, therefore, not deemed probative and is of little evidentiary value.

It should further be noted that immigration officials attempted to verify the information provided by two of the applicant's witnesses [REDACTED] and [REDACTED].

- The first witness statement (dated March 31, 2004) submitted by [REDACTED] states that: [REDACTED] has known the applicant since 1981; the two associated socially; and Mr. [REDACTED] has personal knowledge that the applicant has continuously resided in the United States since June of 1981 except for brief visits to Pakistan to visit family members. [REDACTED] was subsequently personally interviewed by immigration officials on February 23, 2007. The director indicates that during that interview, [REDACTED] stated that he first met the applicant in the early 1980s on the Staten Island Ferry, that the two exchanged telephone numbers, and that the two then lost contact until 1995. On appeal, [REDACTED] submits a second witness statement (dated April 14, 2007) wherein he states that during his interview with immigration officials on February 23, 2007, he did not state that he lost contact with the applicant from 1981 until 1985. The witness states that he frequently went out with the applicant after the two met in 1981, but was unable to see the applicant as frequently from 1986 to 1991 for personal family reasons.
- [REDACTED] submitted a notarized witness statement dated April 1, 2004 wherein he states that he has known the applicant since January of 1981 when the applicant lived with a friend of [REDACTED]. The witness further states that he helped the applicant obtain employment at Khan Mobil Service Station, and that he supported him financially and morally in 1987 when the applicant's wife was ill. The director notes that immigration officials contacted [REDACTED] by telephone to verify the contents of his witness statement. During that telephone interview, [REDACTED] stated that he first met the applicant in 1987. Subsequent to that telephone interview, [REDACTED] submitted a notarized witness statement dated June 27, 2006 wherein he states that the immigration official who interviewed him on the telephone must have misunderstood his statement. [REDACTED] states that he first met the applicant in 1981, not 1987 as stated by immigration officials to the applicant and his attorney during the legalization interview. The witness states that he "reconfirm[s] all of the contents of [his] affidavit of April 1, 2004 regarding [the applicant]."

The inconsistencies noted above are material to the applicant's claim as they have a direct bearing on the applicant's activities and whereabouts during the requisite period. 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. Doubt cast on any aspect of the petitioner's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA

1988). The referenced evidence submitted in support of the applicant's claim lacks credibility, and it cannot be determined from the record where the truth actually lies with regard to the applicant's claim.

- The applicant submitted two theatre tickets dated August 15, 1986 from the Palace Theatre. The record does not explain the relevance of these tickets to the issues of this proceeding. They are, therefore, of little evidentiary value.

The applicant submitted the following employment letters:

- A letter dated June 5, 1990 signed by [REDACTED] on Burger King letterhead, wherein it was stated that the applicant was a "contingent employee" from January 5, 1986 until November 10, 1987 earning \$170.00 for a 40 hour workweek. Mr. [REDACTED] further states that the applicant was paid in cash, without deductions. This information is contradictory to the employment information listed by the applicant on the Form I-687 wherein he states that his employment with Burger King commenced in May of 1986.
- An undated letter signed by [REDACTED], on the letterhead of Khan Mobil Service Station, wherein it was stated that the applicant was employed by that entity as a "tyre man" from February 1, 1981 until December 11, 1985, earning \$150 per week without deductions.

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. The employment statements submitted by the applicant fail to provide the information required by the above-cited regulation. The statements do not provide: applicant's address at the time of employment; show periods of layoff (or state that there were none); state the applicant's duties; declare whether the information provided was taken from company records; or identify the location of such company records and state whether they are accessible or in the alternative why they are unavailable. As such, the employment statements are not deemed probative and are of little evidentiary value.

- The applicant submitted an attestation from [REDACTED] on the letterhead of the Ahlulbayt Mosque wherein it is stated that the applicant has been attending the Ahlulbayt Mosque since October of 1981.

The regulation at 8 C.F.R. § 245a.2(d)(3)(v), as hereinafter set forth, provides requirements for attestations made on behalf of an applicant by churches, unions, or other organizations:

- (v) Attestations by churches, unions, or other organizations to the applicant's residence by letter which:
  - (A) Identifies applicant by name;
  - (B) Is signed by an official (whose title is shown);
  - (C) Shows inclusive dates of membership;
  - (D) States the address where applicant resided during membership period;
  - (E) Includes the seal of the organization impressed on the letter or the letterhead of the organization, if the organization has letterhead stationery;
  - (F) Establishes how the author knows the applicant; and
  - (G) Establishes the origin of the information being attested to.

The attestation presented does not comply with the regulation in that it does not state the applicant's address during the membership period, establish how the author knows the applicant, or establish the origin of the information attested to. Further, the applicant fails to indicate his association with the mosque at part 31 of the Form I-687. As such, the attestation is not deemed probative and is of little evidentiary value.

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.12(e), 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 the evidence submitted fails to establish continuous residence in an unlawful status in the United States during the requisite period.

Therefore, based upon the foregoing, the applicant has failed to establish by a preponderance of the evidence that he has continuously resided in an unlawful status in the United States for the requisite period. The applicant is, therefore, ineligible for temporary resident status under section 1104 of the LIFE Act.

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