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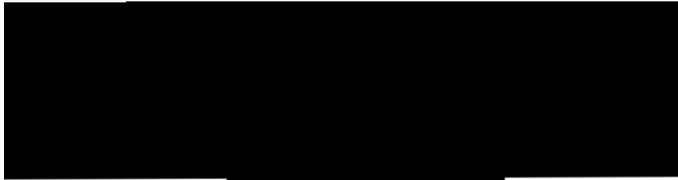
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U.S. Department of Homeland Security  
U. S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
Washington, DC 20529-2090

**U.S. Citizenship  
and Immigration  
Services**

L2



FILE:

MSC 01 284 60465

Office: ORLANDO

Date: JUN 01 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.

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, Orlando, Florida, 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, counsel for the applicant asserts that the applicant has submitted sufficient evidence to establish the requisite continuous residence. Counsel 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 August 9, 2005, 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 applicant submitted affidavits that were neither credible nor amenable to verification. The director granted the applicant thirty (30) days to submit additional evidence.

In the Notice of Decision, dated November 21, 2007, the director denied the instant application based on the reasons stated in the NOID. The director noted that the applicant responded to the NOID, but failed to overcome the reasons for denial stated in 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 a letter of employment, dated June 27, 2001, from [REDACTED] of [REDACTED], located at [REDACTED], [REDACTED] states that the applicant had been employed part-time, gassing and washing automobiles, from January 1981 to January 1986.

It is also noted, however, that the letter of employment failed to provide the applicant's address at the time of employment, 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 letter, therefore, is not probative as it does not conform to the regulatory requirements.

#### Affidavits & Letters

The applicant submitted the following:

1. Two affidavits from [REDACTED], attesting that the applicant, his nephew, resided with him at [REDACTED], from 1981 to 1987. [REDACTED] also states that during that period he saw the applicant every day. The affiant, however, does not provide details, such as to specify when in 1981 the applicant began residing with him or when in 1987 the applicant stopped living with him.
2. An affidavit from [REDACTED], attesting to having known the applicant to have resided in the United States since 1981. The affiant also attests that he first met the applicant at a Cricket game at Smokey Park, Richmond Hill, and that he kept in touch with the applicant from 1981 to 1988. The affiant, however, does not provide details, such as how frequently he had contact with the applicant during these years, including periods when he and the applicant lived in different states.
3. An affidavit from [REDACTED], attesting to having known the applicant to have resided in the United States since January 15, 1981. [REDACTED], however, does not provide any additional details, such as, how he dates his acquaintance with the applicant, and whether and how he maintained contact with the applicant since January 15, 1981.
4. Affidavits from [REDACTED], and [REDACTED] attesting to having known the applicant to have resided in the United States since January 1981. [REDACTED] also attests that he met the applicant in the summer 1981, and they have been friends ever since. [REDACTED] also attests that he first met the applicant at a family reunion on Thanksgiving Day in 1981.

In addition, the record of proceedings contains a letter, dated June 21, 2001, from [REDACTED] Religious-Director, Imam (Priest), of the Central Islamic Center of New York, located at [REDACTED], stating that the applicant has been residing with him since the applicant arrived in the United States on January 15, 1981, and that the applicant has been a member of the organization. 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 Central Islamic Center of New York 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 counsel's assertion the affidavits and evidence submitted by the applicant are lacking in detail. It is noted above, the affidavits and letters provided are devoid of essential detail. It is

reasonable to expect that the affiants would be able to provide relevant details given that they claim to have known the applicant since 1981. The affidavits provided, therefore, lack probative value.

In addition, contrary to counsel's assertion, the applicant has submitted questionable documentation in an attempt to establish his continuous residence. For example, [REDACTED] and [REDACTED], attest that they have known the applicant to have resided in the United States since January 1981. However, the affiants also contradict themselves. [REDACTED] also attests that he first met the applicant in summer 1981; and, [REDACTED] also attests that he first met the applicant at a family reunion on Thanksgiving Day in 1981.

These discrepancies cast considerable doubt on whether any of the affidavits and letters the applicant provided in support of his application are genuine, and whether the applicant resided in the United States since January 1981 as he claims. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the 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 lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). The applicant has failed to submit any objective evidence to explain or justify the lack of detail in the evidence provided. Therefore, the evidence offered by the applicant is deemed not credible, and not probative.

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.