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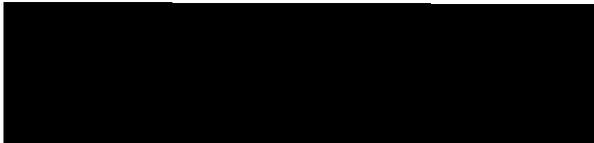
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U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
MSC 01 321 60182

Office: GARDEN CITY

Date: **MAR 30 2009**

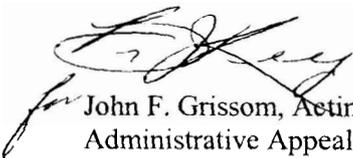
IN RE: Applicant: [REDACTED]

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: SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the National Benefits Center. 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.


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. The decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application because the applicant failed to demonstrate that he entered the United States before January 1, 1982, and resided in a continuous unlawful status through May 4, 1988.

Although a Form G-28, Notice of Entry of Appearance as Attorney or Representative, has been submitted, the individual named is not authorized under 8 C.F.R. § 292.1 or 292.2 to represent the applicant. Therefore, the applicant shall be considered as self-represented and the decision will be furnished only to the applicant.

On appeal, the applicant asserts that he has submitted sufficient evidence in the form of affidavits to establish the requisite continuous residence. The applicant does not submit 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 January 29, 2008, the director requested that the applicant submit evidence of his entry into the United States before January 1, 1982, and sufficient evidence demonstrating his continuous unlawful residence in the United States from before January 1, 1982 through May 4, 1988. The director noted that the applicant submitted affidavits and letters 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 February 28, 2007, 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 his continuous residence in the United States in an unlawful status, and his physical presence, during the requisite period. In an attempt to establish continuous unlawful residence in the United States during the requisite period in this country since prior to January 1, 1982, the applicant submitted various affidavits and letters 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.

Contrary to the applicant’s assertion, although the applicant has submitted numerous affidavits, and other evidence, in support of his application, the applicant has submitted questionable documentation. For example, the applicant submitted a letter of employment from [REDACTED], located at [REDACTED] Brooklyn, stating that the applicant had been employed from August 1981 through July 1986. However, as noted by the director, a search of the New York State Division of Corporations for [REDACTED], located at [REDACTED] Brooklyn, indicates that no such business ever existed. This casts doubts on whether

the affidavits and letters the applicant submitted in an attempt to establish his continuous residence are true.

Also, the applicant has submitted questionable applications. It is noted that on his Biographic Information Form G-325A, submitted in connection with a Form I-485 application filed by the applicant on November 12, 1996, the applicant indicated that he was married to [REDACTED] on November 8, 1993. The applicant also indicated that he had no previous marriage. However, the record reflects that in support of an application for advance parole, the applicant provided a medical letter from [REDACTED] stating that "[REDACTED] of [REDACTED] has been under my treatment for the last 3 (three) months;" and a MCI World Message Service letter, dated November 26, 1990, stating that the applicant's wife is seriously ill, and urging him to come quickly. On appeal, counsel denies that the applicant submitted two prescriptions from two doctors, or that the applicant submitted a letter from a doctor in Pakistan with his application for advance parole. According to counsel, the applicant is not from Pakistan, and he was not married.¹ However, based on the documentation the applicant provided in support of his application for advance parole the record indicates that the applicant was married to [REDACTED]. Yet, he does not indicate on his Biographic Information Form G-325A, that he had any previous marriage. This discrepancy casts doubts on whether the contents of the applications the applicant submitted are genuine.

These discrepancies cast considerable doubt on the applicant's claim that he has resided continuously in the United States since prior to January 1, 1982. 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 discrepancies in the record. Therefore, the reliability of the remaining evidence offered by the applicant is suspect and it must be concluded that the applicant has failed to establish that he continuously resided in the United States in an unlawful status during 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, 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

¹ It noted that the director did indicate that the applicant had submitted a letter from a doctor in Pakistan in connection with an advance parole application. However, the letter is determined not to be from a doctor in Pakistan, but rather from a doctor in Bangladesh. The AAO finds this apparent typographical error to be harmless.

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