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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:



Office: GARDEN CITY

Date:

**AUG 25 2010**

MSC 01 364 60156

IN RE:

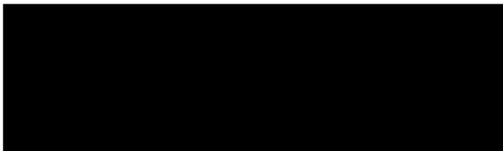
Applicant:



APPLICATION:

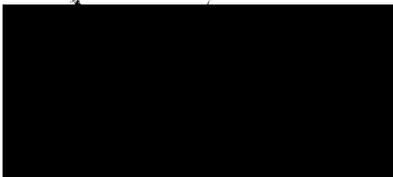
Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000. Pub. L. 106-553, 114 Stat. 2762 (2000), *amended* by LIFE Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000).

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.



Chief, Administrative Appeals Office

at the lab with me. I have  
been working on the glass and  
the other things in the lab.

Yours truly,  
[Signature]

**DISCUSSION:** The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the Director, Garden City. The decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

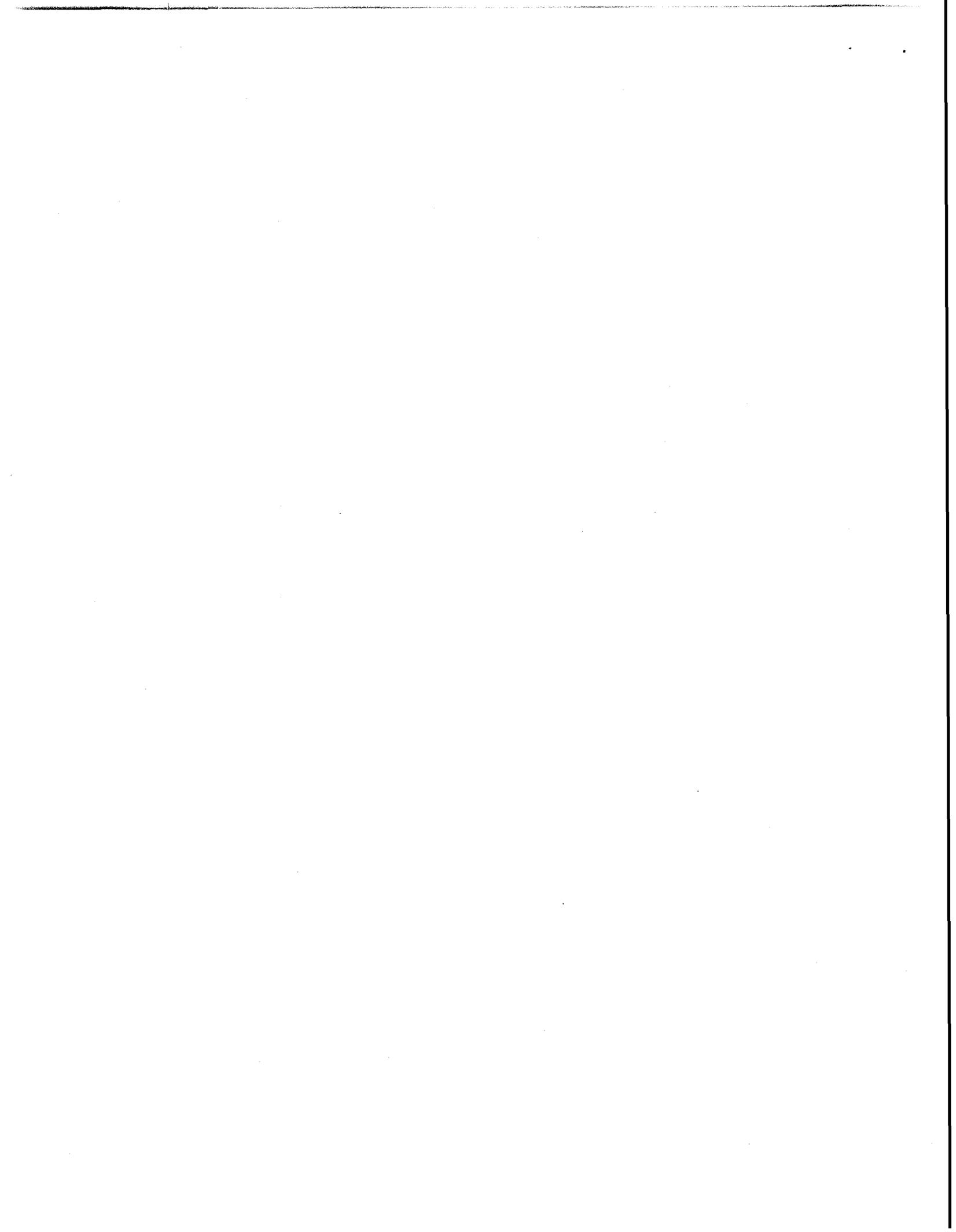
On September 29, 2001, the applicant filed an application for permanent resident status pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), amended by Life Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000). The director denied the application because the applicant failed to establish that he satisfied the "basic citizenship skills" required under section 1104(c)(2)(E) of the LIFE Act. Specifically, the director determined that the applicant failed to demonstrate his ability to read, write and speak ordinary English at the first interview, and failed to appear for the second interview. The applicant has disputed this on appeal and states that he was never interviewed, and did not receive the director's Notice of Intent to Deny (NOID) informing him of the second interview.

The AAO finds that the record of proceeding contains a fill-in-the-blanks declaration form with no identifying alien registration number, alien name, or date, and an illegible signature underneath a statement that reads "I, \_\_\_\_\_, do not read, write and speak English, please reschedule the interview." The director determined that the applicant did not prove his English skills based on this statement signed at the first interview. The AAO found that absent identifying data on the declaration form, it could not be determined whose signature appears on the form. The AAO issued a NOID on May 20, 2010 to provide the applicant with the opportunity to respond to the director's NOID and denial decision and to submit additional evidence regarding his English and civics skills and his continuous residence in the United States during the requisite period. The applicant did not respond to the AAO NOID.

The record does not reflect that the director provided the applicant with an adequate opportunity to prove his English and citizenship skills. The AAO withdraws the director's decision finding the applicant ineligible because he did not establish English skills.

The application may not be approved, however, as the applicant has not established his continuous residence in the United States from before January 1, 1982 and throughout the requisite period. Although the director did not address this issue, in its NOID the AAO outlined the deficiencies in the evidence of the applicant's continuous residence, and gave the applicant the opportunity to submit evidence to establish that he entered the United States prior to January 1, 1982, and thereafter continuously resided in the United States in an unlawful status for the duration of the requisite period. The applicant failed to respond.

At issue in this proceeding is whether the applicant submitted sufficient credible evidence to meet his burden of establishing that he (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.



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 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,” [REDACTED] is made based on the factual circumstances of each individual case. [REDACTED] (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.* at 80. 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, 431 (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 regulation at 8 C.F.R. § 245a.2(d)(3) provides an illustrative list of contemporaneous documents that an applicant may submit in support of his or her claim of continuous residence in the United States in an unlawful status since prior to January 1, 1982, the submission of any other relevant document is permitted pursuant to 8 C.F.R. § 245a.2(d)(3)(vi)(L).



The documentation that the applicant submitted in support of his claim to have arrived in the United States before January 1, 1982 and lived in an unlawful status during the requisite period consists of affidavits of relationship written by friends, a letter from a previous employer and other evidence. The AAO has considered all of the evidence relevant to the requisite period to determine the applicant's eligibility; however, the AAO will not quote each witness statement in this decision.

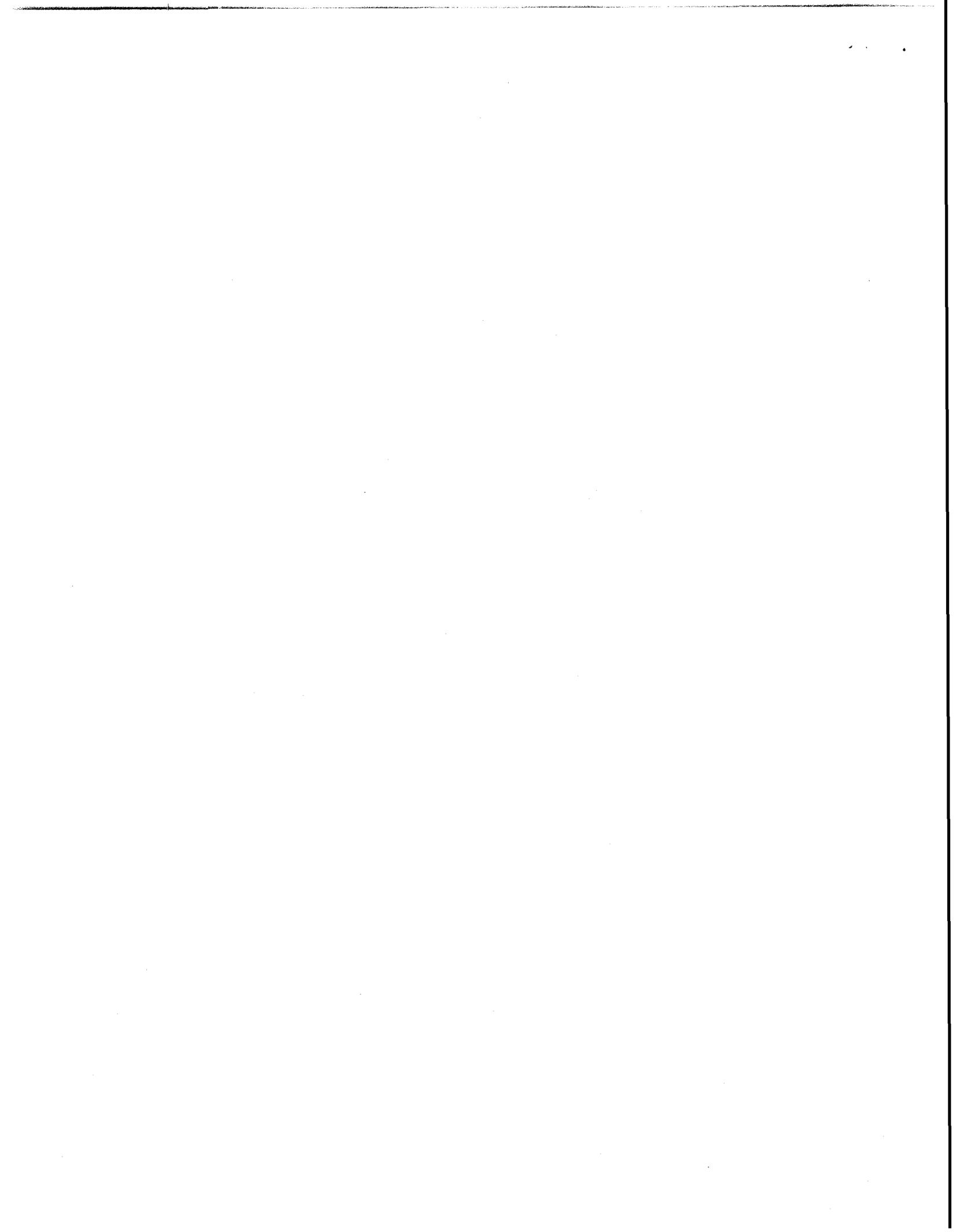
The applicant claims that he entered the United States without inspection through California on March 15, 1981. The applicant claims on the Form I-687 that he worked in construction from 1981 to 1986. The record also contains the applicant's written statement dated November 20, 1984, where he claims to have worked in a restaurant from 1981 to 1986.

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, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). The applicant failed to resolve this inconsistency in the record.

The applicant submitted affidavits from [REDACTED] to establish his initial entry and residence in the United States during the requisite period. The affiants attest to personally knowing and being acquainted with the applicant and having knowledge that he resided in the United States since the 1980s.

The affidavits do not provide concrete information, specific to the applicant and generated by the asserted association with him, which would reflect and corroborate the extent of this association and demonstrate that the affiants had a sufficient basis for reliable knowledge about the applicant during the time addressed in their affidavits. To be considered probative and credible, witness affidavits must do more than simply state that an affiant knows an applicant and that the applicant has lived in the United States for a specific time period. Their content must include sufficient detail from a claimed relationship to indicate that the relationship probably did exist and that the witness does, by virtue of that relationship, have knowledge of the facts alleged. Therefore, the affidavits have little probative value.

[REDACTED] states that the applicant was employed by Damas Atlantic Ltd., Glendale, New York, as an operator since 1987. 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. As the letter does not meet the requirements stipulated in the aforementioned regulation, it will be given nominal weight.



The remaining evidence consists of 15 envelopes. Because the envelopes bear either no postmarks or illegible postmarks, they have minimal probative value.

The regulation at 8 C.F.R. § 245a.2(d)(6) states that, in order to meet the burden of proof in establishing eligibility for temporary residence status, an applicant must provide evidence of eligibility apart from his or her own testimony. The applicant has not provided sufficient credible documentation to establish that he resided in the United States for the requisite period, as required under both 8 C.F.R. § 245a.2(d)(5) and *Matter of E- M-*, 20 I&N Dec. 77 (Comm. 1989). He is, therefore, ineligible for temporary resident status under section 245A of the Act on this basis.

Based upon the foregoing, the applicant has failed to establish by a preponderance of the evidence that he entered the United States before January 1, 1982 and continuously resided in an unlawful status in the United States for the requisite period 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.

