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



U.S. Citizenship  
and Immigration  
Services

[REDACTED]

L2

FILE:

[REDACTED]

Office: GARDEN CITY

Date:

IN RE:

Applicant:

[REDACTED]

FEB 07 2011

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:

[REDACTED]

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.

Perry Rhew  
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 based on the determination that the applicant was ineligible to adjust to permanent resident status under the provisions of the LIFE Act. The director found that the applicant had not established by a preponderance of the evidence that he had continuously resided in the United States in an unlawful status for the duration of the requisite period. Specifically, the director noted that the applicant submitted affidavits which lack sufficient detail to be considered probative.

On appeal, through counsel, the applicant indicates that the director applied an improper evidentiary standard. The applicant requests a copy of the record of proceedings. This request was processed on September 15, 2010.<sup>1</sup>

The AAO conducts appellate review on a *de novo* basis. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). Following *de novo* review, the AAO finds that the applicant has failed to establish his continuous residence in the United States from January 1, 1982 throughout the relevant period.

An applicant for permanent resident status 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 and through May 4, 1988. Section 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 periods, is admissible to the United States under the provisions of section 212(a) of the Act, 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).

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. 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.



of the applicant in a Form I-687 filed in 1992, in which the applicant stated that he worked for this company from May 1987 until November 1987.

As noted above, 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). The applicant has been given the opportunity to satisfy his burden of proof with a broad range of evidence pursuant to 8 C.F.R. § 245a.2(d)(3).

Given the applicant’s reliance upon documents with minimal probative value, and his inconsistent statements, 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 the relevant period as required under section 1104(c)(2)(B) of the LIFE Act. The applicant is, therefore, ineligible for permanent resident status under section 1104 of the LIFE Act on this basis.

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