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U.S. Department of Homeland Security  
Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
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U.S. Citizenship  
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Services



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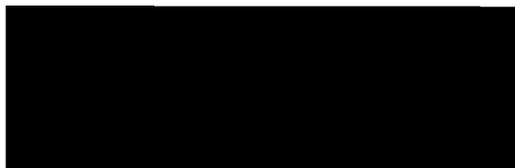


IN RE: Applicant:



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. All documents have been returned to the office that originally decided your case. 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.

*Elizabeth McCormack*

Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The director of the Los Angeles office denied the application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act, finding the applicant had failed to establish his continuous residence throughout the requisite period. Specifically, the director found that the applicant's testimony as to when he began residing in the United States was inconsistent. The matter is now on appeal to the AAO. The appeal will be dismissed.

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). "Continuous unlawful residence" is defined at 8 C.F.R. § 245a.15(c)(1), as follows:

An alien shall be regarded as having resided continuously in the United States if no single absence from the United States has exceeded *forty-five (45) days*, and the aggregate of all absences has not exceeded one hundred and eighty (180) days between January 1, 1982, and May 4, 1988, unless the alien can establish that due to *emergent reasons*, his or her return to the United States could not be accomplished within the time period allowed.

An applicant for permanent resident status under [REDACTED] 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 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 has established that he (1) entered the United States before [REDACTED] continuously resided in the United States in an unlawful status throughout the requisite period. The documentation that the applicant submits in support of his claim to have arrived in the United States before January 1982 and lived in an unlawful status during the requisite period consists of several witness statements, copies of postmarked envelopes, and a few paystubs dated in 1984. The AAO has reviewed each document in its entirety to determine the applicant's eligibility; however, the AAO will not quote each witness statement in this decision. Much of the evidence submitted indicates that the applicant resided in the United States after [REDACTED] however, because evidence of residence after [REDACTED] is not probative of residence during the requisite time period, it shall not be discussed.

The record contains numerous witness statements. The statements are general in nature, and state that the witnesses have knowledge of the applicant's residence in the United States for all, or a portion of, the requisite statutory period.

Although the witnesses claim to have personal knowledge of the applicant's residence in the United States during the requisite period, the witness statements do not provide concrete information, specific to the applicant and generated by the asserted associations with him, which would reflect and corroborate the extent of those associations, and demonstrate that they were a sufficient basis for reliable knowledge about the applicant's residence in the United States during the requisite period. To be considered probative and credible, 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 period. Their content must include sufficient detail from a claimed relationship to indicate that it probably did exist and that the witness, by virtue of that relationship, does have knowledge of the facts alleged. For instance, the witnesses do not state how they date their initial meeting with the applicant in the United States, or specify social gatherings, other special occasions or social events when they saw and communicated with the applicant during the requisite period. The witnesses also do not state how frequently they had contact with the applicant during the requisite period. The AAO finds that the witness statements do not provide sufficient details that would lend credence to their claimed knowledge of the applicant's residence in the United States during the requisite period. For these reasons the AAO finds that the witness statements do not indicate that their assertions are probably true.

It should be noted that the witness statements contradict the sworn testimony given by the applicant in other United States Citizenship and Immigration Services (USCIS) proceedings, and contradict information provided by the applicant on the Form I-687. Some of the witnesses provided more than one statement and the information contained in their statements is contradictory.

- Many of the witnesses attest to the applicant's residence in the United States prior to January 1, 1982. The applicant testified under oath on July 1, 1998 in removal proceedings that he first arrived in the United States on October 20, 1986. The applicant signed a Form

G-325A, under penalty of law for providing false information, stating that he lived in Mexico from January of 1967 until October of 1986.

- [REDACTED] submitted an affidavit on April 8, 1998 stating that he has known the applicant since October of 1986 and to the best of his knowledge the applicant has been living in Santa Ana, California. In an affidavit dated [REDACTED], the same affiant states that he is the applicant's cousin and that the applicant first came to the United States in 1981 and lived with him at that time.
- [REDACTED] submitted an affidavit dated April 3, 1998 stating that they have personal knowledge that the applicant came to the United States on October 1, 1986. In an affidavit dated October 8, 1990, [REDACTED] states that she had knowledge of the applicant's residence in the United States from November of 1981 until October of 1986.
- [REDACTED] submitted an affidavit dated October 8, 1990 wherein she stated that the applicant resided [REDACTED] from November of 1986 until June of 1987. The applicant states on the Form I-687 that he resided at [REDACTED] from October of 1986 until December of 1988.

The inconsistencies noted have not been explained and are material to the applicant's claim because 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 noted inconsistencies bring into question the probative value and credibility of all of the applicant's evidence.

- Additional evidence was also submitted in support of the applicant's claim: stamped registered mail receipts for the years: 1986; 1987; and 1988; pay stubs for the years: 1986; 1987; and 1988; merchandise receipts, a tax return and a California identification card for 1987; and a W2 form, California driver's license and tax return for 1988.
- The applicant submitted copies of stamped envelopes addressed to the applicant during the requisite period. The envelopes, however, do not contain legible post marks to establish the date of mailing. They are, therefore, of no probative value.

The applicant submitted two employment statements in support of his claim:

- [REDACTED] submitted a statement indicating that the applicant had worked for his organization since October of 1986, and that the applicant currently holds the position of General Manager.

- [REDACTED] submitted an affidavit wherein he states that the applicant worked for him in his landscaping business from November of 1981 until October of 1986.

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: the applicant's address at the time of employment; show periods of layoff (or state that there were none); 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 also submitted his personal statements in support of his application. The applicant's statements, however, in the absence of other credible and relevant evidence establishing his residence in the United States during the requisite period, will not sustain his claim. This is especially true given the inconsistencies attributed to the applicant discussed above. As previously noted, in order to meet his or her burden of proof, an applicant must provide evidence of eligibility apart from his or her own testimony, and the sufficiency of all evidence produced by the applicant will be judged according to its probative value and credibility. 8 C.F.R. § 245a.2(d)(6).

The absence of sufficiently detailed documentation to corroborate the applicant's claim of continuous residence for the entire requisite period, and the inconsistencies noted of record, seriously detract from the credibility of his claim. 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 and inconsistencies in the record, it is concluded that the evidence submitted fails to establish continuous residence in an unlawful status in the United States during the requisite period.

Thus, it is found that the applicant has failed to establish continuous residence in an unlawful status in the United States from prior to January 1, 1982 through May 4, 1988. Accordingly, the applicant is not eligible for adjustment to permanent resident status under [REDACTED]

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