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**U.S. Department of Homeland Security**  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-20920  
**U.S. Citizenship  
and Immigration  
Services**

L2



Date: **JUN 14 2012** Office: PHILADELPHIA

FILE:

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.

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 of the Philadelphia office and is 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. This decision was based, in part, on the director's conclusion that the applicant's testimony regarding the date of his initial entry was inconsistent with the evidence supplied by the applicant.

On appeal, counsel reiterates the applicant's claim of continuous residence in the United States throughout the requisite period. Counsel asserts that given that so much time has lapsed since the date of the applicant's initial entry, the inconsistent testimony is understandable. On appeal, counsel for the applicant submitted a brief.

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. See § 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 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 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. 8 C.F.R. § 245a.2(d)(3)(vi)(L).

At issue in this proceeding is whether the applicant has submitted sufficient credible evidence to 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. Here, the applicant asserts that he entered the United States on a nonimmigrant visitor's visa on September 30, 1981 and again in 1987.

In his decision, the director indicated that the applicant stated in an affidavit that he first entered the United States on September 30, 1981. The director further noted that in response to the director's notice of intent to deny the application (NOID), the applicant submitted a copy of a receipt he received from the Southern National Bank of Houston dated August 31, 1981.

The director further determined that the evidence submitted was insufficient to establish the applicant's continuous residence in the United States 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 resided in an unlawful status during the requisite period consists of a letter from [REDACTED] an updated affidavit of [REDACTED], an attestation of [REDACTED] a bank receipt, and an employment letter. The AAO has reviewed each document to determine the applicant's eligibility; however, the AAO will not quote each witness statement in this decision. Some of the evidence submitted indicates that the applicant resided in the United States after May 4, 1988; however, because evidence of residence after May 4, 1988 is not probative of residence during the requisite time period, it shall not be discussed.

The employment letter states that [REDACTED] employed the applicant from April 16, 1988 through August 8, 1990.

The regulation at 8 C.F.R. § 245a.2(d)(3)(i) provides that letters from employers must include: (A) Alien's address at the time of employment; (B) Exact period of employment; (C) Periods of layoff; (D) Duties with the company; (E) Whether or not the information was taken from official company records; and (F) Where the records are located and whether the Service may have access to the records. If the records are unavailable, an affidavit form-letter stating that the alien's employment records are unavailable and why such records are unavailable may be accepted in lieu of subsections (E) and (F).

The employment letter does not fully comply with the above cited regulation because it does not describe the applicant's duties, indicate whether the information was taken from official company records, and where the records are located and whether the Service may have access to the records. Given these deficiencies, this letter is of minimal probative value in supporting the applicant's claims that he entered the United States before January 1, 1982 and continuously resided in the United States for the requisite period.

The declarations from [REDACTED] 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 period. These statements fail, however, to establish the applicant's continuous unlawful residence in the United States for the duration of the requisite period. As stated previously, the

evidence must be evaluated not by the quantity of evidence alone but by its quality; 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. [REDACTED] stated that in 1981, the applicant called him to inform him that he was in the United States and that they spoke on the phone often. [REDACTED] states that he has known the applicant as a friend since 1986 and that they lived together. He failed to state when and where he and the applicant resided together. Neither witness indicates how they date their initial contact with the applicant in the United States.

None of the witness statements 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 have a sufficient basis for reliable knowledge about the applicant's residence during the time addressed in the affidavits. To be considered probative and credible, witness statements must do more than simply state that a declarant 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. Upon review, the AAO finds that, individually and together, the witness statements do not indicate that their assertions are probably true. Therefore, they have minimal probative value and will be given little weight as evidence in support of the applicant's claim of continuous residence in the United States during the requisite period.

Thus, the applicant failed to establish that he was continuously residing in the United States throughout the requisite period, and, therefore, is ineligible to adjust permanent resident status under the provisions of the LIFE Act.

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