U.S. Department of Homeland Security
U.S. Citizenship and Immigration Service
Administrative Appeals Office
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

(b)(6)

DATE: AUG 3 1 2015

FILE:
APPLICATION RECEIPT:

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:

NO REPRESENTATIVE OF RECORD

Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Field Office Director, Los Angeles Field Office, denied the application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act. The matter is now 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. The director noted that the applicant did not overcome the reasons for denial stated in the Notice of Intent to Deny (NOID).

On appeal, the applicant states that he was unable to obtain documentation from his former employer who issued his letter of employment and that he has submitted photographs of the property where he had been employed. The applicant does not submit additional evidence on appeal.

The AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). We have reviewed all of the evidence and made a *de novo* decision based on the record and our assessment of the credibility, relevance and probative value of the evidence.

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). According to *Matter of E-M-*, in evaluating the evidence, "[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.

When 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 burden 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 April 25, 2008, the director notified the applicant that the record lacked sufficient evidence to establish his continuous unlawful residence and his physical presence in the United States during the requisite period. The director noted that, in support of his claim of residency, the applicant provided a letter of employment stating that he had been employed from November 1981 to approximately March 1984, but that letter lacked detail and could not be verified. The director granted the applicant 30 days to submit additional evidence.

In his decision, dated June 24, 2008, the director denied the instant application based on the reasons stated in the NOID. The director noted that the applicant responded to the NOID and submitted additional evidence; however, the director deemed the evidence insufficient to overcome the reasons for denial stated in the NOID.

The issue in this proceeding is whether the applicant has furnished sufficient credible evidence to demonstrate that he continuously resided in the United States in an unlawful status during the requisite period. The applicant submitted evidence, including letters and affidavits, to support his Form I-485 application.

In support of his claimed residence in the United States, the applicant submitted:

1) A notarized letter of employment from dated February 25, 1991, stating that the applicant had been employed harvesting grapes, and thinning and harvesting lettuce, from November 1981 to approximately March 1984, and was paid on a cash basis. Mr. did not provide information about the applicant's address at the time of employment; does not show periods of layoff; or declare whether the information comes from company records, and if so, identify the location of such company records, state whether such records are accessible or, in the alternative, explain why such records are unavailable, as required under 8 C.F.R. § 245a.2(d)(3)(i). Given these deficiencies this letter is of minimal probative value to support the applicant's claims that he entered the United States before January 1, 1982, and continuously resided in the United States from that date through May 4, 1988.

2) An affidavit from dated April 23, 2007, attesting to having known the applicant to have resided in the United States since 1980. Mr. also states that he and the applicant worked at the same place for nearly 16 years, that they became good friends, and that they have maintained contact since. The affiant, however, does not indicate how he dates his acquaintance with the applicant, nor does he indicate where and under what circumstances he first met the applicant, and how they maintained contact throughout the years since their initial acquaintance.

3) An affidavit from , dated April 23, 2007, attesting to having known the applicant to have resided in the United States since March 1981. Mr. also states that he met the applicant at a family gathering and that he has remained close to the applicant and his family. The affiant, however, does not indicate how he dates his acquaintance with the applicant, nor does he indicate where he first met the applicant, and how they maintained contact throughout the years since their initial acquaintance.

4) A declaration from stating that the applicant contacted him in search of , the applicant's former employer.

5) Eight undated photographs depicting a building, a tractor, an intersection, and various fields. The relevance of these photographs, however, is unclear and how they pertain to the applicant's claimed residence also is unclear. The photographs, are therefore, not probative of the applicant's residence.

In addition lacking detail, the affidavit from Mr. contradicts the applicant's claim. Specifically, the applicant stated on a questionnaire he submitted to establish a claim to class membership that he first came to the United States in 1981. However, Mr. attests to the applicant's residence in the United States since 1980.

The applicant has not submitted sufficient evidence to establish his continuous residence during the requisite period. As stated previously, the evidence must be evaluated not by the quantity of evidence alone but by its quality. 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 minimal probative value of the applicant's documents, we conclude that he has not established continuous residence in an unlawful status in the United States from prior to January 1, 1982, through May 4, 1988.

In application proceedings, it is the applicant's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

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