



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

MATTER OF S-A-

DATE: DEC. 1, 2015

APPEAL OF WASHINGTON FIELD OFFICE DECISION

APPLICATION: FORM I-485, APPLICATION TO REGISTER PERMANENT RESIDENCE  
OR ADJUST STATUS

The Applicant, a native and citizen of Ghana, seeks to adjust status to lawful permanent resident. See Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. No. 106-553, 114 Stat. 2762 (2000), amended by LIFE Act Amendments, Pub. L. No. 106-554, 114 Stat. 2763 (2000). The Director, Washington Field Office, denied the application. The matter is now before us on appeal. The appeal will be dismissed.

The Director denied the application, finding that the Applicant had not demonstrated that he entered the United States before January 1, 1982, or that he continuously resided in the United States since that date through May 4, 1988. In addition, the Director determined that the Applicant is inadmissible to the United States under section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), because he sought to procure an immigration benefit by fraud or misrepresentation.

On appeal, the Applicant avers that the Director erred in concluding that the evidence is insufficient to establish that he qualifies for adjustment of status under the LIFE Act. Further, the Applicant asserts that the Director erred in finding him inadmissible to the United States under section 212(a)(6)(C)(i) of the Act.

We conduct appellate review on a *de novo* basis. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).

An applicant for permanent resident status under the LIFE Act must establish that before October 1, 2000, he or she filed a written claim with the Attorney General for class membership in any of the following legalization class-action lawsuits: *Catholic Social Services, Inc. v. Meese*, vacated sub nom. *Reno v. Catholic Social Services, Inc.*, 509 U.S. 43 (1993) (CSS), *League of United Latin American Citizens v. INS*, vacated sub nom. *Reno v. Catholic Social Services, Inc.*, 509 U.S. 43 (1993) (LULAC), or *Zambrano v. INS*, vacated sub nom. *Immigration and Naturalization Service v. Zambrano*, 509 U.S. 918 (1993) (Zambrano). See 8 C.F.R. § 245a.10. Further, such applicant must establish that he or she entered the United States before January 1, 1982, and resided continuously in the United States in an unlawful status since that date through May 4, 1988. See 8 C.F.R. § 245a.10. Finally, an applicant must establish that he or she is not inadmissible to the United States for

permanent residence under any provisions of section 212(a) of the Act, 8 U.S.C. § 1182(a), with certain limited exceptions.

The evidence includes, but is not limited to: a brief; the Applicant's statement; Form I-687, Application for Status as a Temporary Resident under Section 245A of the Immigration and Nationality Act, with accompanying class membership form; other immigration forms and applications; identity documents; U.S. federal tax documents; documentation from the U.S. Immigration and Customs Enforcement, Office of Investigations, Forensic Document Laboratory (FDL); photographs; and affidavits. The entire record was reviewed and considered in rendering this decision.

We will first address the Applicant's claim that the evidence is sufficient to establish that he entered the United States before January 1, 1982, and that he resided in the United States in an unlawful status since his entry, as is required for adjustment of status under the LIFE Act.

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

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. *See 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.* 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 a director has some doubt as to the truth, if an 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 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.

The Applicant's claims regarding his initial entry into the United States throughout the record are inconsistent. On the Form I-687 submitted on August 10, 1989, the date of initial entry is listed as June 17, 1981, through the Buffalo land border, without a visa. However, the date of the Applicant's entry on the class membership form accompanying the Form I-687 is listed as March 10, 1980. The record reflects that during his adjustment interview on March 2, 2005, the Applicant claimed to have entered the United States "by air without inspection" on March 3, 1980. Finally, in the brief

(b)(6)

*Matter of S-A-*

submitted on appeal, the Applicant avers that he entered the United States with a visitor visa on March 3, 1980. The Applicant has not submitted evidence to corroborate his claim of entry with a visitor's visa.

The documentation submitted in support of the Applicant's claim that he arrived in the United States before January 1982 and resided in the United States in an unlawful status during the requisite period consists of two affidavits written by [REDACTED] who claims to be the Applicant's cousin,<sup>1</sup> and letters from employers. The affidavit from [REDACTED], executed on May 21, 2002, states that the Applicant resided with him from October 1986 through March 1987. The affidavit does not specify the place of this residence and it does not contain statements regarding the Applicant's entry into the United States or his residence in the United States prior to January 1982. In the second, undated affidavit, [REDACTED] states that he invited the Applicant to stay with him in Virginia upon learning that he obtained a visa to come to the United States. According to the affidavit, the Applicant chose to live in New York with one of his cousins and did not come to live with [REDACTED] in Virginia until 2001. These two affidavits contain contradictory information regarding the dates of the Applicant's alleged residence with [REDACTED]. In addition, neither affidavit establishes the Applicant's residence in the United States prior to January 1, 1982. We note that the second affidavit and the Applicant's claims on appeal about his entry into the United States on March 10, 1980, with a visitor's visa, contradict his initial claims of entry into the United States without inspection on either June 17, 1981, or March 10, 1980. As such, [REDACTED] affidavits lack credibility and have minimal probative value.

One of the Applicant's employment letters, dated February 16, 2005, describes his employment at [REDACTED] Virginia, since December 5, 2002. The other letter, dated February 14, 2005, confirms his employment at a [REDACTED] Virginia, as of the date of the letter. In response to the Notice of Intent to Deny issued on July 19, 2014, the Applicant submitted several documents, including federal tax transcripts, an advance parole document, a telephone bill statement, an employment verification letter, and a photocopy of his Ghanaian passport issued in Washington, D.C. None of these additional documents, however, are dated before 1996, and they do not support the Applicant's claims of unlawful residence in the United States prior to January 1, 1982.

The Applicant's testimony and the affidavits contain contradictory information regarding his date and manner of initial entry into the United States, and he provides no explanation for the contradictions. The discrepancies regarding the Applicant's entry into the United States cast doubt on his claims of unlawful residence in the United States before January 1, 1982, and, thus, his eligibility for adjustment of status. 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 he submits competent objective evidence pointing to where the truth lies. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the

---

<sup>1</sup> A copy of [REDACTED] 2001 federal income tax return shows that he claimed the Applicant as his brother in the dependents section.

(b)(6)

*Matter of S-A-*

reliability and sufficiency of the remaining evidence offered in support of the application. *See Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

Therefore, based upon the foregoing, we conclude that the Applicant did not 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 both 8 C.F.R. § 245a.2(d)(5) and *Matter of E-M-*, *supra*. The Applicant is, therefore, ineligible for adjustment of status under the provisions of the LIFE Act on this basis.

Regarding the Applicant's inadmissibility under section 212(a)(6)(C)(i) of the Act, we agree with the Director that the evidence supports such finding. The issue is whether the Applicant is the same person who filed the initial Form I-687 to establish class membership and who subsequently was issued a travel document that resulted in an individual being paroled into the United States on March 13, 1997. The Director found that the Form I-687 and the application for a travel document were filed by another individual. The Director made this determination based on the fact that the fingerprints submitted by the individual who filed the Form I-687 on August 10, 1989, did not match the Applicant's fingerprints submitted in connection with the instant Form I-485. In addition, the Director found that the Applicant's photographs in the record did not match the photograph on the advance parole document issued on January 28, 1997. On appeal, the Applicant asserts that he has maintained the same identity since he entered the United States in 1980 and that the interviewing officer, being a layperson, erroneously concluded that the photograph on the advance parole document does not resemble the Applicant without making efforts, such as forensic analysis, to authenticate the photographs.

The record contains two sets of manual fingerprints. The first set of fingerprints on Form FD-258 was provided on August 8, 1989, by the individual who submitted Form I-687. The information on the Form FD-258 reflects that this individual reported the same name and date of birth as the Applicant. The individual's physical description on the Form FD-258 indicates that he is five feet, two inches tall, and that he weighs 115 pounds. The second set of fingerprints was taken on a Form FD-249 on March 2, 2005, in connection with the instant Form I-485. On this form the Applicant's height is reported as five feet, six inches, and his weight as 160 pounds. The record shows that the fingerprint impressions on both forms were analyzed by a senior fingerprint specialist at the FDL on March 24, 2005, and determined not to belong to the same individual. In addition, the record shows that on May 23, 2006, a forensic document examiner at the FDL compared the signatures on both fingerprint forms; Form I-687; Biographic Information Form G-325A; the Applicant's sworn statement provided on March 2, 2005; and a certificate from a passport control office in [REDACTED] Ghana, dated August 8, 1989. Based on microscopic, instrumental, and comparative examination of the above evidence, the examiner determined that the signatures on the forms dated 1989-- the FD-258 card, the Form I-687, and the certificate from the passport control office-- do not match the Applicant's signatures on the 2005 documents, namely the Form FD-249 and the sworn statement he provided on March 2, 2005. In addition, the Applicant's Virginia driver's license issued on February 11, 2005, shows his height as five feet, seven inches, which is consistent with the information on the Form FD-249. In contrast, the height of the individual associated with the Form

*Matter of S-A-*

I-687 is listed as five feet, two inches, on his Form FD-258 and on the certificate from the passport control office in [REDACTED]. Moreover, the record shows that during the interview in connection with his adjustment application on July 9, 2014, the Applicant was asked the names of his siblings. The names he provided during this interview, as reflected in the Applicant's sworn statement, do not match the names of siblings listed on the Form I-687. Although the record does not contain any specific determination as to the photograph comparison, we find that the evidence in the record is sufficient to support the Director's conclusion that the Applicant assumed the identity of the individual who filed the Form I-687 and that he used this individual's travel document to obtain parole into the United States. Therefore, we conclude that the Director did not err in finding the Applicant inadmissible to the United States under section 212(a)(6)(C)(i) of the Act.

Further, because the forensic comparison of fingerprints and signatures establishes that the Applicant did not file the Form I-687 contained in his immigration file, we find that the Applicant has not established that prior to October 1, 2000, he submitted a written claim with the Attorney General in any of the legalization class-action lawsuits listed above, as is required for adjustment of status pursuant to LIFE Act.<sup>2</sup>

The Applicant has not established unlawful residence in the United States from a date prior to January 1, 1982. He has not established that he submitted a written class membership claim before with the Attorney General prior October 1, 2000, or that he is admissible to the United States. The Applicant is not eligible to adjust to permanent resident status under the LIFE Act for these reasons, with each considered as an independent and alternative basis for denial.

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.

Cite as *Matter of S-A-*, ID# 14259 (AAO Dec. 1, 2015)

---

<sup>2</sup> The Form I-687 was submitted with two affidavits attesting to the filer's residence in New York, since June of 1981 and June of 1989, respectively. As we have concluded that the Applicant did not file the Form I-687, we do not consider these affidavits to have evidentiary value regarding the Applicant's residence in the United States during the requisite period.