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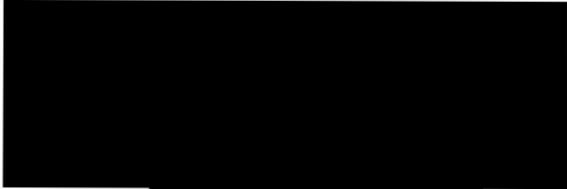
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:

MSC 02 169 62492

Office: LOS ANGELES

Date: JUL 13 2006

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:

SELF-REPRESENTED

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. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the District Director, Los Angeles, California, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The district director denied the application because the applicant had not demonstrated that she had continuously resided in the United States in an unlawful status since before January 1, 1982 through May 4, 1988.

On appeal, the applicant states that she is submitting evidence that, "as a whole" shows her physical presence in the United States during the qualifying period. The applicant asks for adjustment of status under the LIFE Act, or in the alternative, "a reasonable extension of time . . . to gather further evidence to support [her] claim of eligibility." The applicant submits copies of four affidavits on appeal.¹

Pursuant to 8 C.F.R. § 103.3(a)(2) and the instructions accompanying the Form I-290B, Notice of Appeal to the Administrative Appeals Unit, the applicant may request additional time in which to submit a brief or additional evidence. The AAO may grant additional time upon a showing of good cause. The applicant has not shown good cause to grant an extension of time in which to submit additional evidence. Further, as of the date of this decision, more than twenty months after the appeal was filed, no further documentation has been received by the AAO. Therefore, the record will be considered complete as presently constituted.

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. 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

¹ The affidavit from [REDACTED] indicates that he has been acquainted with the applicant during 1990. As this date is subsequent to the qualifying period, Mr. [REDACTED] statement is not probative of the applicant's residency and presence in the United States from prior to January 1, 1982 through May 4, 1988.

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 Citizenship and Immigration Services (CIS) 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 applicant states that she first entered the United States in October 1980 when she crossed the border without inspection. The applicant states that she left the United States once during the qualifying period for approximately one month when she traveled to Mexico for emergency reasons.

In an attempt to establish continuous unlawful residence since before January 1, 1982 through May 4, 1988, the applicant submitted the following evidence:

1. Copies of a June 4, 1993 statement and sworn affidavit from [REDACTED] in which she stated that she is a good friend of the applicant's and has known the applicant since 1980. Ms. [REDACTED] did not indicate where, when or under what circumstances she became acquainted with the applicant.
2. A copy of a June 4, 1993 notarized statement from [REDACTED] who stated that she has known the applicant since 1980, and that the applicant resided with her a short time while working as her housekeeper. While Ms. [REDACTED] stated that she and the applicant are "close friends," she did not provide specifics of her first acquaintance with the applicant or the period of time that the applicant lived with her or worked as her housekeeper.
3. A copy of a June 4, 1993 sworn affidavit from [REDACTED] who stated that he has personal knowledge that the applicant lived in Riverside, California since October 1980. However, Mr. [REDACTED] states that he has known the applicant only since 1981 because she is a close friend of his wife. Mr. [REDACTED] does not indicate how he obtained personal knowledge of the applicant prior to his acquaintance with her.
4. A copy of a June 7, 1993 notarized statement from [REDACTED] in which she stated that she has known the applicant since 1985. Ms. [REDACTED] did not indicate that the applicant was residing in the United States during the requisite time frame.
5. A statement from [REDACTED] stating that she was aware of the applicant's absence from the United States from July 17, 1987 to August 8, 1987 because the applicant worked for her during that time.

On appeal, the applicant submitted:

6. A copy of an October 26, 2004 sworn statement from [REDACTED] in which she stated that she has been acquainted with the applicant for "about 23 years, since she first came to [the] United States."
7. A copy of an October 18, 2004 sworn statement from [REDACTED] who stated that she has known the applicant since 1982; however, Ms. [REDACTED] did not provide the specifics of her acquaintance with the applicant or indicate that the applicant resided in the United States during the qualifying period.

8. A copy of an October 18, 2004 sworn statement from [REDACTED], who certified that he has been acquainted with the applicant since 1983. Mr. [REDACTED] did not indicate the circumstances of his initial acquaintance with the applicant, and does not indicate that she resided in the United States during the required period.

The applicant states that she cannot read and can write nothing but her name. She states that, as a result, she never wrote to her family or received letters from them and that all of her communication was done via telephone. The applicant further stated that, due to her illegal status, she did not open bank accounts, file taxes or "even work under my legal name." Nonetheless, the applicant submitted copies of envelopes bearing postmarks that appear to have been canceled in the 1990's, after the qualifying period. Further, the applicant submitted no evidence that she worked at any time under an assumed name. The non-existence or other unavailability of required evidence creates a presumption of ineligibility. 8 C.F.R. § 103.2(b)(2)(i).

As discussed above, the evaluation of the applicant's claims is a factor on both the quality and quantity of the evidence provided. While affidavits in certain cases can effectively meet the preponderance of evidence standard, the affidavits submitted by the applicant provide are vague in detailing her residency and presence in the United States during the required period. Further, the applicant submitted no documentary evidence, such as affidavits of residency or employment, from those who were not close friends and that would provide independent and objective evidence that she meets the eligibility requirements under the LIFE Act.

Accordingly, it is concluded that the applicant has failed to establish continuous residence in the U.S. for the required period.

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