

**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

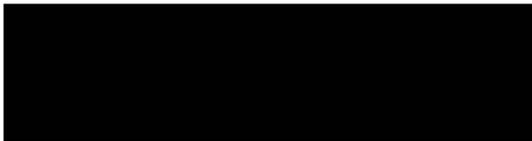
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, D.C. 20529



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

L2

PUBLIC COPY

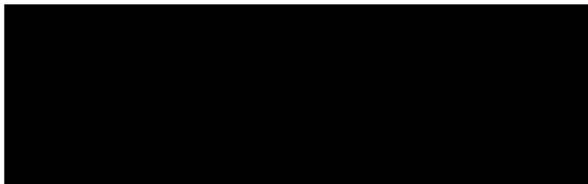


FILE: [REDACTED] Office: CHICAGO Date: JUN 26 2006
MSC 02 008 62465

IN RE: Applicant: [REDACTED]

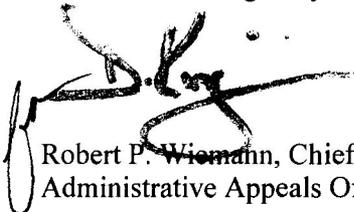
APPLICATION: Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), *amended by* Life Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000).

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. 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, Chicago, Illinois, 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 from before January 1, 1982 through May 4, 1988.

On appeal, counsel asserts that the applicant has submitted sufficient documentation establishing continuous residence in the United States from prior to January 1, 1982 through May 4, 1988.

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 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 (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 director issued a Notice of Intent to Deny dated May 28, 2003, advising the applicant that the documentation submitted was insufficient to establish continuous residence in the United States since before January 1, 1982 through May 4, 1988.

Counsel, in response, submitted a letter dated June 5, 2003 from [REDACTED] president of Mitha Corporation in Richmond, Virginia, who indicated that on December 13, 1981, the applicant had applied for

employment as a cashier in one of their restaurants, but was not hired because there was not a position available.

The director, in denying the application, noted that in an attempt to verify the authenticity of [REDACTED] letter, Citizenship and Immigration Services (CIS) telephoned the phone number listed on the letter; however, it was disconnected. A search via the Internet was subsequently conducted in an effort to locate and contact Mitha Corporation, but the corporation could not be found.

On appeal, counsel neither addresses the issue regarding CIS's inability to locate Mitha Corporation nor provides evidence to establish its existence.

Doubt cast on any aspect of the evidence may lead to a reevaluation of the reliability and sufficiency of the remaining evidence. It is incumbent upon an applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. See *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988).

On appeal, counsel argues that the director failed to address the applicant's other evidence and focused only on the letter from Mitha Corporation.

Along with the letter from Mitha Corporation that has been found to be questionable, the applicant has only submitted *one* other document in an attempt to establish continuous unlawful residence since before January 1, 1982 through May 4, 1988, namely an affidavit from [REDACTED] of Glendale Heights, Illinois. [REDACTED] attested to the applicant's 1981 entry into the United States and to her Chicago and Glendale Heights residences during the requisite period. [REDACTED] indicated that the applicant was in her employ as a babysitter and housekeeper from November 1981 to 1985.

The applicant did submit other documents; however, they have no relevance, probative value or evidentiary weight as: 1) [REDACTED] and [REDACTED] in their affidavits, only attested to the applicant's birth in Karachi, Pakistan; 2) [REDACTED] affidavit attested to the employment of the applicant's spouse; and 3) the remaining documents served to establish the applicant's residence *subsequent* to the requisite period.

The applicant has claimed that she has continuously resided in the United States since 1981, nevertheless, she has only been able to provide CIS with one affidavit in support of her residence for the requisite period. The applicant provides no evidence such as lease agreements, utility bills or rent receipts either in her or her spouse's name to corroborate her and [REDACTED] s claims to have resided in Illinois during the requisite period. In addition, no documentation from her husband has been provided in an effort to establish her residence and presence in the United States during the period in question.

Furthermore, the record reflects that the applicant has two children who were born in Pakistan on April 30, 1983 and October 19, 1985. On her Form I-687 application, the applicant failed to indicate that she had children and that she had been outside the United States during these periods. The applicant's failure to disclose her children's births and the departures on her Form I-687 application are a strong indication that the applicant was either not in the United States during the requisite period or may have been outside the United States beyond the period of time allowed by regulation.

Given the virtual absence of contemporaneous documentation, along with applicant's reliance of a single affidavit, it is concluded that she has failed to establish continuous residence in an unlawful status from prior to

January 1, 1982 through May 4, 1988, as required. Therefore, the applicant is ineligible for permanent resident status under section 1104 of the LIFE Act.

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