



U.S. Citizenship
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FILE: [REDACTED]
MSC 01 327 60325

Office: BALTIMORE

Date: MAY 19 2006

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:

[REDACTED]

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.

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, Baltimore, Maryland, and is now before the Administrative Appeals Office (AAO) 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, the applicant submitted additional documentation and originals of documentation previously submitted.

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

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

1. A copy of a Republic of the Cameroon passport bearing a U.S. immigration entrance stamp of December 5, 1983. The stamp indicated that the applicant was admitted to the U.S. pursuant to an F-1, student visa that was effective until June 9, 1984.

2. A September 9, 1991 sworn statement from [REDACTED], attesting to the applicant's character, and stating that he has known her for 11 years. [REDACTED] did not indicate the nature of his relationship with the applicant and provided no other details regarding her residency in the United States.
3. A September 9, 1991 sworn affidavit and a sworn statement of the same date from [REDACTED], who stated that he has known the applicant for 11 years, and that she lived with him as his babysitter/housekeeper.
4. A September 7, 1991 sworn affidavit from [REDACTED] who stated that, from his personal knowledge, the applicant lived in Washington, DC and Silver Spring, Maryland during the qualifying period. The affiant did not state the nature of the relationship with the applicant or the source of the knowledge regarding the applicant's residency.
5. A September 10, 1991 sworn affidavit from [REDACTED] who professed personal knowledge that the applicant lived in Washington, DC and Silver Spring, Maryland during the qualifying period. The affiant stated that this knowledge is based on church meetings and entertainment with the applicant. The affiant did not provided specifics of the circumstances of the acquaintance with the applicant or the source of the knowledge regarding the applicant's residency.
6. Envelopes addressed to the applicant in Washington, DC and Silver Spring, Maryland with canceled postmarks dated in 1980 through 1984, and in 1986. The director concluded that the copies of the envelopes were not acceptable evidence because the postmarks were either illegible or, in one instance, appeared to have been altered. On appeal, the applicant submitted the original of these documents. While we do not find that the postmarks appear to be altered, we do note that one of the canceled postmarks show a date of August 16, 1983; however, the canceled stamp reflects that it was issued in 1984. Further, several of the postmarks for the differing years, including the 1983 postmarks canceling the 1984 stamp, carry the same defect in the ink impression. These postmarks are, therefore, highly suspect as to their authenticity. 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 the applicant submits competent objective evidence pointing to where the truth lies. Doubt cast on any aspect of the applicant's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa application. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988).
7. A June 19, 2003 letter from [REDACTED], principal of the Bell Multicultural Senior High School in Washington, DC, verifying that the applicant was a student in the Multicultural Career Intern Program from 1983 to 1986. The record also contains a 1986 diploma to the applicant from the Multicultural Career Intern Program.
8. Rent receipts dated in 1986 and 1987. We note that the receipt for December 10, 1987 appear to have altered dates.
9. A copy of an April 18, 1988 Maryland vehicle accident report, listing the applicant as one of the drivers and showing her with an address in Washington, DC.
10. A copy of a school transcript, reflecting that the applicant was a student at the University of the District of Columbia during the fall semester of 1987 and the spring semester of 1988.

11. A Social Security earnings statement, reflecting social security earnings from 1985 through 1988 of the qualifying period.
12. A copy of a letter from [REDACTED] who stated that the beneficiary worked in her home as a housekeeper from November 1980 until December 31, 1984. However, during a telephonic interview on March 15, 2004, [REDACTED] contradicted this statement, stating that she “thinks” she hired the applicant in the 1990’s, and that the applicant worked for her as a babysitter for her son, who was then four years old. We note further that on her Form I-687 dated September 12, 1991, the applicant stated that she worked as a babysitter/housekeeper for [REDACTED]; however, she listed no other employment from November 1980 to June 1986. The applicant submitted no evidence to resolve these inconsistencies. *See id.*

On appeal, the applicant also submitted:

13. An April 16, 2004 sworn letter from [REDACTED] who stated that the applicant worked as her housekeeper from December 1, 1980 until November 20, 1984. As with [REDACTED], the applicant did not state on her Form I-687 or at any other time prior to the appeal that she had worked for the affiant during this period.
14. An April 20, 2004 sworn affidavit from [REDACTED] who stated that she has known the applicant since 1980 [REDACTED] stated that the applicant helped her do laundry in the past; however, the affiant did not provide specifics regarding the period that the applicant helped her with the laundry or how she dated her acquaintance with the applicant.
15. An April 11, 2004 letter from [REDACTED] who stated that she has known the applicant since 1983 as a running and exercising partner.

On appeal, the applicant states that she qualifies for the LIFE Act benefits because she unlawfully accepted employment and worked as a housekeeper for various employers in violation of her F-1 student visa status. The applicant, however, submitted conflicting statements and documentation as evidence to corroborate her employment during this time.

Given the unresolved inconsistencies and suspect documentation in the record, the applicant has failed to establish continuous residence in the United States for the required period.

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