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FILE: MSC 02 095 60712

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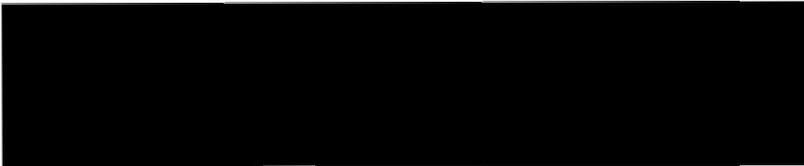
Date: NOV 08 2006

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:



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 sustained.

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 director erred in her consideration of the applicant's affidavits, and that the applicant has submitted sufficient documentation establishing continuous residence in the United States from prior to January 1, 1982 through May 4, 1988. Counsel submits a brief and additional documentation in support of the appeal.

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. Section 1104(c)(2)(B) of the LIFE Act; 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 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).

The applicant stated during her LIFE Act interview that she first entered the United States on December 29, 1981. In an attempt to establish continuous unlawful residence since before January 1, 1982 through May 4, 1988, the applicant submitted the following evidence:

1. An October 26, 1989 affidavit from [REDACTED] in which she stated that the applicant lived with her at [REDACTED] in Tucson, Arizona from December 29, 1981 to February 10, 1982. Ms. Paz reaffirmed this information in an August 17, 2004 notarized statement.
2. A November 9, 1989 affidavit from [REDACTED] in which he stated that he met the applicant at church in March of 1982, and that she has lived in the Los Angeles area since February 1982.
3. A November 9, 1989 affidavit from [REDACTED] in which she stated that she has been a friend of the applicant's since their residency in Mexico, and that the applicant has lived in the Los Angeles area since February 1982.
4. A copy of a certificate of baptism indicating that the applicant served as the sponsor at her nephew's baptism on April 21, 1982 at the [REDACTED] in Los Angeles, California.
5. A December 31, 1990 letter from [REDACTED], pastor of the [REDACTED] in Rancho Dominguez, California, in which he certified that the applicant was an active member of the church from 1982 to 1990. However, the district office was unable to verify the existence of this church on December 18, 2003.
6. A November 6, 1989 affidavit from [REDACTED] the applicant's sister, in which she stated that the applicant lived at [REDACTED] in Los Angeles from February 17, 1982 to 1984.
7. An April 1, 2003 letter from [REDACTED] assistant principal of the adult counseling services of the [REDACTED] Community Adult School in Los Angeles, in which she verified the applicant's attendance at classes in 1984 and 1985.
8. A 1984-1985 student identification card issued to the applicant by the [REDACTED] Adult School in Los Angeles and reflecting the applicant's address as [REDACTED] in Los Angeles, California.
9. A Social Security earnings statement, reflecting that wages were reported for the applicant in the years 1985 through 1988 of the qualifying period.
10. A November 17, 1989 letter from [REDACTED] the office manager of [REDACTED] in which she stated that the applicant was employed with the company from June 25, 1985 to January 30, 1986.
11. A copy of the birth certificate for the applicant's daughter reflecting a birth date of April 15, 1986 in Los Angeles.
12. A copy of the immunization record for the applicant's daughter with entries beginning on July 2, 1986.
13. A November 6, 1989 unsigned statement from the personnel department of [REDACTED] Inc., indicating that the applicant worked for the company from December 13, 1984 until May 31, 1985.
14. Documentation from County of Los Angeles Department of Social Services dated in 1986 and 1987.
15. An October 31, 1989 letter from [REDACTED] of the [REDACTED] in which she stated that the applicant had been employed with the company's [REDACTED] since September 1, 1987.

The applicant also submitted copies of photographs that counsel states are evidence of her continued residency during the required period. Many of the photographs have handwritten annotations purporting to show that they were of events occurring at specific times. However, there is nothing in the photographs that tend to corroborate the handwritten dates annotated on the photographs.

Nonetheless, in this instance, the applicant submitted evidence, including contemporaneous documents, which tends to corroborate her claim of residence in the United States during the requisite period. The district director has not established that the information in this evidence was inconsistent with the claims made on the application, or that it was false information. As stated on *Matter of E--M--*, *supra*, when something is to be established by a preponderance of evidence, the applicant only has to establish that the proof is probably true. That decision also points out that, under the preponderance of evidence standard, an application may be granted even though some doubt remains regarding the evidence. The documents that have been furnished may be accorded substantial evidentiary weight and are sufficient to meet the applicant's burden of proof of residence in the United States for the requisite period.

The documentation provided by the applicant supports by a preponderance of the evidence that the applicant satisfies the statutory and regulatory criteria of entry into the United States before January 1, 1982, as well as continuous unlawful residence in the country during the ensuing time frame of January 1, 1982 through May 4, 1988, as required for eligibility for legalization under section 1104(c)(2)(B)(i) of the LIFE Act.

Accordingly, the applicant's appeal will be sustained. The district director shall continue the adjudication of the application for permanent resident status.

ORDER: The appeal is sustained.