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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

L2

[Redacted]

FILE:

MSC 02 247 66443

Office: DALLAS

Date: OCT 10 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:

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. 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.

A handwritten signature in black ink, appearing to read "R. Wiemann".

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 Interim District Director, Dallas, 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, the applicant submits additional documents as evidence of residency.

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 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.

Here, the submitted evidence is not relevant, probative, and credible.

In the Notice of Intent to Deny, the director stated that as evidence of residency, the applicant provided only "a lease document which is not verifiable and some hand written receipts" related thereto. In the decision, the director observed that the applicant had submitted no new evidence of residency and denied the application.

On appeal, the applicant submits the following documents:

- (1) A copy of a signed letter from [REDACTED] indicating that the applicant has been a patient of the doctor's family medical practice since June 1982 and attaching an immunization record containing entries dated beginning July 23, 1982 and ending December 14, 1984.
- (2) Copies of notes bearing the applicant's name indicating that the applicant had missed an appointment, only one of which bears a date containing a year (1985).
- (3) Copies of certificates related to the applicant's scholastic achievements in the years 1982 through 1985, only one of which bears the name of the entity awarding it.
- (4) Copies of consent to treatment forms from Methodist Hospitals of Dallas signed by the applicant on November 4, 1986 and May 25, 1987 respectively.

The lease agreement submitted by the applicant, which concerns the leasing of an apartment at [REDACTED] Dallas, Texas by the applicant's uncle, [REDACTED] with whom the applicant claims to have resided, is inconsistent with the applicant's testimony on Form I-687. On line 33 of Form I-687, the applicant lists her address from December 1981 through the date of the application (March 21, 1991) as [REDACTED] Texas.

Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). In this case the applicant has made no effort to resolve this inconsistency.

Further, the evidence submitted on appeal by the applicant is of minimal probative value. Many of the documents submitted by the applicant are not dated by year and/or do not bear the name of the entity that issued them. As such, these documents are not amenable to verification. The remaining evidence is probative as to the applicant's presence on certain dates during the required period, but is inadequate to show continuous residence over the entire period.

Due to the applicant's failure to submit sufficient evidence of continuous residence from January 1, 1982 through May 4, 1988, coupled with the inconsistency between the evidence submitted by the applicant and the applicant's Form I-687, the AAO finds that the applicant has not met her burden of proof in showing that she continuously resided in the United States in an unlawful status from before January 1, 1982 through May 4, 1988. Accordingly, the applicant has not established eligibility to adjust status to Legal Permanent Resident status under section 1104 of the LIFE Act.

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