



U.S. Citizenship
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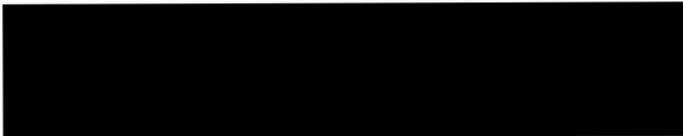
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FILE: [REDACTED] Office: DALLAS Date: OCT 20
MSC 02 247 66266

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. The file has been returned to the office which 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 District Director, Dallas, Texas, 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, counsel for the applicant states that the applicant has submitted substantial and credible to establish that she has been in the United States during the qualifying period.

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. See section 1104(c)(2)(B) of the LIFE Act and 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. § 2451.12(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 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).

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

On June 4, 2002, the applicant filed Form I-485, Application to Register Permanent Resident or Adjust Status, under section 1104 of the LIFE Act.

The applicant filed the following documents in support of her claim that she resided continuously in the United States from a date prior to January 1, 1982 through May 4, 1988:

- A letter dated February 14, 1990, from [REDACTED] stating that she has known the applicant since 1981. The affiant also states that she and the applicant worked together at Texas Laboratories in Dallas, Texas, but does not specify when.
- An undated document consisting of one short paragraph and signed by [REDACTED]. The paragraph states that [REDACTED] has known the applicant from 1981. The paragraph also states that he and the applicant were co-workers at Texas Laboratories but fails to specify when.
- A letter dated April 14, 2004 from [REDACTED] who states that she has known the applicant for 23 years. She also states that she and the applicant were co-workers at Texas Laboratories from "1982 to 1985."
- An undated, handwritten note signed by [REDACTED] stating that he has known the applicant since January of 1982 and that he and the applicant were co-workers at Texas Laboratories from "January 1982 to November 1985."
- A one-sentence letter written by [REDACTED] dated January 22, 1990, and bearing a Texas Laboratories letterhead, stating that that [REDACTED] was employed with Texas Laboratories from January 1982 until November 1985."
- A photocopied, undated, typed document from [REDACTED] stating that he has known the applicant "since 1981" and that he and the applicant were co-workers at Texas Laboratories "for a couple of years."

The applicant has not submitted any contemporaneous documentation to establish presence in the United States prior to January 1, 1982. Nor has does the record contain any contemporaneous documents indicating that she began working at Texas Laboratories in January 1982. There are no pay stubs, no cashed payroll checks, no tax records, or any other documentation that might corroborate the applicant's assertions.

The letter submitted from Texas Laboratories does not meet the criteria for an employer letter, and refers to an individual that may or may not be the applicant [REDACTED]. Although the applicant claims she used the name [REDACTED], the employer's letter does not state that the applicant used an alias while in their employ.

The two letters from [REDACTED] are inconsistent. In one, he states that he has known the applicant since 1981. In the other, he states that he has known the applicant since 1982. This inconsistency undermines the credibility of the applicant's evidence.

None of the affidavits and letters provides sufficient detail to be probative.

In sum, the applicant did not provide sufficient probative evidence of having resided in the United States during the statutory period. She did not provide any contemporaneous evidence nor did she provide any explanation as to why she was unable to provide such evidence.

Thus, it is found that the applicant has failed to establish continuous residence in an unlawful status in the United States from prior to January 1, 1982 through May 4, 1988. Accordingly, the applicant is not eligible for adjustment to permanent resident status under section 1104 of the LIFE Act.

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