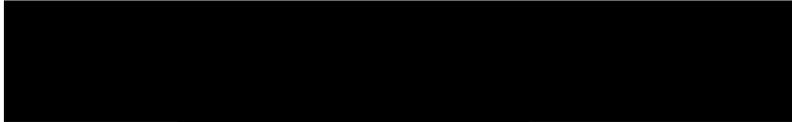


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U.S. Citizenship
and Immigration
Services

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FILE:

MSC 02 036 62937

Office: LOS ANGELES

Date:

FEB 06 2007

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. 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 ink, appearing to read "Robert P. 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, Los Angeles, and is now before the Administrative Appeals Office on appeal. The appeal will be sustained.

The director denied the application because the applicant had not demonstrated that he had continuously resided in the United States in an unlawful status from before January 1, 1982 through May 4, 1988. In the Notice of Intent to Deny (NOID), the director stated that the affidavits submitted by the applicant “do not contain sufficient information and corroborative documents, thus lacking in probative value.” The director denied the application observing that the information submitted by the applicant “failed to overcome the grounds for denial as stated in the NOID.”

On appeal, counsel asserts that the applicant has submitted ample 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.

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 sufficiently relevant, probative and credible.

The record contains a letter dated March 3, 2004 from the applicant's physician, [REDACTED] stating that he has been the applicant's physician since December 1981, when he first provided the applicant with medical treatment related to injuries the applicant sustained playing soccer. The record also contains a copy of the applicant's medical records, which indicate occasional visits to [REDACTED] from December 1981 through May 4, 1988. In addition, the record contains a letter dated April 5, 2003 from [REDACTED] President of the Olympic Soccer League in Los Angeles, California stating that the applicant had participated on various teams in the league beginning in 1982 through the date of the letter. The record also contains other third-party affidavits from the applicant's acquaintances attesting to the applicant's presence in the United States since 1981. The director did not list any specific deficiencies in the evidence submitted by the applicant. When viewed in its totality, the evidence in the record presents a consistent account of the applicant's residency in the United States from before January 1, 1982 through May 4, 1988.

The applicant has met his burden of proving continuous residence in an unlawful status in the United States from before January 1, 1982 through May 4, 1988. Accordingly, the applicant has established eligibility to adjust to Legal Permanent Resident status under section 1104 of the LIFE Act.

ORDER: The appeal is sustained. The application is returned to the director for adjudication consistent with the foregoing.