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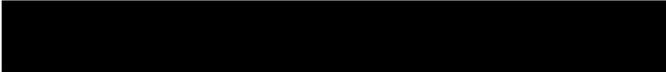
Office: LOS ANGELES

Date:

FEB 09 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. Any further inquiry must be made to that office.

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, Los Angeles, California, 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 asserts that she has submitted sufficient documentation establishing continuous residence in the United States from prior to January 1, 1982 through May 4, 1988. The applicant provides copies of previously submitted documents 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. 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 applicant 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 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.

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).

Here, the submitted evidence is not relevant, probative, and credible. In an attempt to establish continuous unlawful residence since before January 1, 1982 through May 4, 1988, the applicant provided the following evidence:

- Envelopes postmarked August 12, and November 26, 1984 and during 1987 and addressed to and from the applicant's address at [REDACTED] Inglewood, California.

- A handwritten document in the Spanish language from AFDC (Social Services) dated November 8, 1986.
- Her daughter's July 2, 1985 birth certificate.
- A receipt for proof of Medi-Cal eligibility from the Department of Health Services for Los Angeles County dated September 10, 1985, pertaining to the applicant's daughter.
- An affidavit notarized December 16, 2000 from [REDACTED] of Inglewood, California, who attested to the applicant's Inglewood residence at [REDACTED] since May 1983.
- An affidavit notarized December 16, 2000 from [REDACTED] of Wilmington, California, who attested to the applicant's Inglewood residence at [REDACTED] since April 1982.
- An affidavit notarized September 12, 1999 from a sister, [REDACTED] of Inglewood, California, who attested to the applicant's residence in Inglewood, California since November 1980. [REDACTED] asserted that the applicant resided with her from October 1981 to 1991 and babysat her child[ren].
- An undated document signed by [REDACTED] to the Department of Public Social Services.

On September 2, 2004, the director issued a Notice of Intent to Deny, advising the applicant that the affidavits submitted did not contain sufficient objective evidence to which they could be compared to determine whether the attestations were credible, plausible, or internally consistent with the record. The applicant was also advised that at the time of her interview, she informed the interviewing officer that she was never employed in the United States during the requisite period, and that she received public assistance from 1986 to 1997. The director indicated that the applicant had failed to provide proof that she would not likely become a public charge in the United States as required in 8 C.F.R. § 245a.18(c)(2)(vi).

The applicant, in response, asserted, in part:

All my friends have relocated in different cities or States making it difficult for me to obtain more evidence. I did not have a Social Security Number when I came to the United States, I have worked cashed. Therefore, it is difficult to provide evidence that I never had, I would also like to clarify that I have never asked for Public Assistance for my self. At any given time I ever had the intentions of asking for any type of assistance for my self, I have always tried to work in companies or for people that pay me cash, but it has been very hard now in days to obtain employment, because I have no work permit and the companies or people who need housekeepers do not want to hire me for the same reason.

The applicant submitted:

- An additional affidavit from her sister, [REDACTED], who attested to the applicant's arrival in the United States in October 1981. [REDACTED] asserted that the applicant resided in her home from October 1981 to 1991 and babysat her children.

- An affidavit from [REDACTED] of Inglewood, California, who indicated that she has known the applicant since 1981. [REDACTED] asserted that the applicant resided in the same apartment building [REDACTED]. [REDACTED] asserted that she and the applicant have remained in contact since that time.
- A Form I-134, Affidavit of Support, along with 2002 and 2003 federal and state income tax returns from [REDACTED] of Wilmington, California.
- A letter dated July 4, 2004 from Child Support Services Department for Los Angeles County, informing the applicant of its intent to close her case.
- An undated Verification of Benefits from the Department of Public Social Services for Los Angeles County, verifying that the applicant is receiving benefits for two individuals.

On appeal, the applicant reiterates her previous statement that she “worked in cash for many years, which makes it difficult to provide more evidence.”

The AAO does not view some of the affidavits discussed above as substantive enough to support a finding that the applicant entered and began residing in the United States before January 1, 1982 through July 1984 as inconsistent and contradictory information has been provided. Specifically:

1. [REDACTED] and [REDACTED] attested to the applicant’s residence at [REDACTED] since 1983 and 1982, respectively. The applicant, on her Form I-687 application, claimed no residence at this address during the requisite period.
2. [REDACTED] indicated the applicant resided with her from October 1981 to 1991, but provided no address for the applicant or evidence such as lease agreements, rent receipts or utilities bills to corroborate the affiant’s claim.
3. The applicant claimed that because she did not have a social security card, she received her wages in cash. The applicant, however, on her Form I-687 application dated April 1990, indicated at item 35 that she had no employment during the period in question.

Doubt cast on any aspect of an applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence. It is incumbent upon an applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I. & N. Dec. 582 (BIA 1988).

Given the credibility issues arising from the documentation provided by the applicant, it is determined that the applicant has not met his burden of proof. The applicant has not established, by a preponderance of the evidence, that she entered the United States before January 1, 1982 and resided in this country in an unlawful status continuously from before January 1, 1982 through May 4, 1988, as required under 1104(c)(2)(B)(i) of the LIFE Act and 8 C.F.R. § 245a.11(b). Given this, the applicant is ineligible for permanent resident status under section 1104 of the LIFE Act.

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