



U.S. Citizenship  
and Immigration  
Services

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FILE:

[Redacted]  
MSC 02 050 65501

Office: LOS ANGELES

Date: FEB 09 2007

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. 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.

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 dismissed.

The 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. The director noted in the Notice of Intent to Deny (NOID) that the applicant had not submitted any documentation of residency "other than affidavits and rental receipts" for the years 1981 to 1984. The director determined that the "affidavits [the applicant] submitted do not contain sufficient information nor are they accompanied by corroborative documents, thus lacking weight in evidence." Further, the director found that the applicant's oral testimony concerning her residences was inconsistent with information listed on her Form I-687 and in the rental receipts she submitted.

On appeal, counsel asserts that the applicant has submitted sufficient evidence of residency to meet her burden of proof. Counsel contends that the applicant has provided an explanation for, and submitted evidence to resolve, the inconsistencies in the evidence noted by the director.

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).

In response to the (NOID), the applicant submitted a declaration to clarify her residences in the United States. She asserted that she had never lived in Perris, California as indicated on her Form I-687 and in rental receipts submitted previously. The applicant explained that the Form I-687 was completed by an "immigration consultant" and this consultant never provided her with a copy of that form or other documents submitted therewith:

She asked me where I had lived since my arrival to the United States and I told her all the addresses and dates. She asked me where I had worked as well and I told her. I never told her that I lived in Perris, California. I remember mentioning to her that I had worked at a bakery in Perris for a few days. I never provided her the rent receipts that the interviewing Officer asked me about . . . .

As additional evidence that she resided at [REDACTED] in Los Angeles, California from June 1982 to June 1993, as listed in her declaration, the applicant has submitted an affidavit from a neighbor, [REDACTED]

The director found that this information "failed to overcome the grounds the grounds for denial as stated in the NOID" and denied the application.

The AAO concurs. The applicant's Form I-687, which bears the applicant's signature, lists a male, [REDACTED] rather than a female as the preparer. The form does not differ from the applicant's declaration respecting the applicant's addresses in merely some details, as would be expected if the preparer had made mistakes in transcribing the applicant's answers. Rather, there is virtually no correlation between the information listed in the applicant's Form I-687 and the information provided in the applicant's declaration. The Form I-687 lists four addresses for the applicant, only one of which is found in the applicant's declaration: [REDACTED] in Los Angeles. According to the Form I-687, the applicant began residing at this address in October 1988. In her declaration, the applicant indicates that she did not begin residing at this address until 1993, nearly four years after the Form I-687 was completed. Furthermore, the applicant indicated in her declaration that she resided at [REDACTED] from June 1982 to June 1993, but [REDACTED] attests in his affidavit that the applicant lived at this address from March 1982 to June 1992.

It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the applicant submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Doubt cast on any aspect of the applicant's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa

petition. *Id.* The applicant has failed to submit independent objective evidence that adequately explains and resolves that inconsistencies noted above and in the director's decision.

As the applicant has not submitted sufficient credible evidence of residency, she therefore has not met her burden of proof in showing that he had 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.