



U.S. Citizenship
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FILE:

MSC 02 243 68154

Office: LOS ANGELES

Date: FEB 12 2007

IN RE:

Applicant:

APPLICATION:

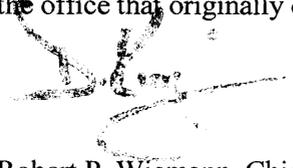
Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), amended by Life Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000).

ON BEHALF OF APPLICANT:

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. Any further inquiry must be made to that office.


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 had submitted sufficient documentation in response to Notice of Intent to Deny to establish continuous residence in the United States from prior to January 1, 1982 through May 4, 1988. The applicant submits copies of documents that were previously provided.

It is noted that the director, in denying the application, did not address the evidence furnished initially, and in response to the Notice of Intent to Deny, and did not set forth the specific reasons for the denial pursuant to 8 C.F.R. § 103.3(a)(1)(i). As such, the documentation submitted throughout the application process will be considered on 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:

- Two earnings statements issued for pay periods ending November 3, 1985 and January 5, 1986 from Customs Control Sensors, Inc., along with a letter dated April 13, 1990 from [REDACTED] personnel of Custom Control Sensors, Inc., in Chatsworth, California, who attested to the applicant's employment as a "m. shop worker" from October 9, 1984 to March 6, 1986. [REDACTED] asserted that the information was taken from their official company records, which Citizenship and Immigration Services could examine.
- A photocopied letter dated April 28, 1990 from an uncle, [REDACTED] of Los Angeles, California, who indicated that the applicant resided with him from August 1981 to August 1984.
- A photocopied letter dated April 27, 1990 from [REDACTED], president of Independent Studio Services, Inc., (ISS) in Sun Valley, California, who attested to the applicant's employment since August 26, 1987. [REDACTED] listed the applicant's duties as "incharge [sic] of janitorial and maintenance of our large warehouse and manufacturing facilities, as well as filling in as needed in our manufacturing plant in painting of hand crafted items of all types."
- A California identification card issued on September 10, 1987, which listed the applicant's address as [REDACTED]
- A Form 1099G-UC, Unemployment Compensation Payments for the 1986 calendar year, along with a payment stub for August 1986. The payment stub indicated that the applicant's unemployment claim expired on May 23, 1987.
- A 1985 wage and tax statement from [REDACTED]
- An affidavit notarized May 13, 2002 from [REDACTED] of Quartz Hill, California, who indicated that she has known the applicant since 1981 and attested to the applicant's character. [REDACTED] asserted that the applicant "often helps me with housekeeping though [the applicant] is now a nursing assitant, [sic] she still continues to help me around the house."
- An affidavit notarized May 11, 2002 from a brother-in-law, [REDACTED] of Pomona, California, who indicated that he has known the applicant since 1981. [REDACTED] asserted, "she often visited my home during those early years, sometimes staying at my home around the year 1984."

The applicant also submitted documentation in the Spanish language without the required English translation. Any document containing foreign language submitted to CIS shall be accompanied by a full English language translation which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English. 8 C.F.R. 103.2(b)(3).

On May 20, 2004, the director issued a Form I-72 requesting that the applicant submit evidence of continuous presence in the United States from 1981 to 1984 and 1988. The applicant, in response, submitted:

- An affidavit notarized June 2, 2004 from [REDACTED] of Palmdale, California, who indicated that the applicant was in her employ as a babysitter from 1981 to 1983.
- A 1984 and 1986 wage and tax statements along with an additional copy of a 1985 wage and tax statement from [REDACTED]
- A 1988 wage and tax statement from Independent Studio Services, Inc.
- A letter dated June 2, 2004 from [REDACTED] pastor of [REDACTED] in Lancaster, California, who indicated that the applicant was a member of its church from January 1988 to December 2002.

The director issued a Notice of Intent to Deny dated August 25, 2004, advising the applicant that the documents submitted establish neither her entry prior to January 1, 1982 nor her continuous unlawful residence since that date through May 4, 1988. In addition, the applicant was informed that there were inconsistencies between her application, documentation, and oral testimony. Specifically, the only employment the applicant listed on her Form I-687 application was Independent Studio Services commencing in August 1987. At the time of the applicant's interview, she indicated that she was employed by Custom Control Sensors, Inc. from 1984 to 1986 and in response to the Notice of Intent to Deny, the applicant submitted an affidavit from [REDACTED] who attested to the applicant's employment as a babysitter from 1981 to 1983. The director noted that the employment with [REDACTED] was neither mentioned on her Form I-687 nor at the time of her interview.

The applicant, in response, submitted copies of documents that were previously provided along with an additional letter dated May 24, 2004 from [REDACTED] payroll administrator of Custom Control Sensors, Inc., who reaffirmed the applicant's employment from October 9, 1984 through March 6, 1986. The applicant asserted, in part:

I first came to this country in August 1981 and resided in Los Angeles for about three years. Being under age I did not work but did babysit for friends and relatives. I never withheld this information in the interview, I specifically told the officer that I did not work but did take care of children. This is not an inconsistency but rather my notion of what a job is. I now realize that yes that could be a form of employment, however, to me that was an explanation of whereabouts in the US at that moment in time. Please note that there were several notarized affidavits submitted establishing my presence in the US at that period in time and that there were no inconsistencies found regarding that evidence.

The applicant has provided sufficient evidence to establish her continuous unlawful residence from October 9, 1984 through May 4, 1988. The AAO, however, does not view the applicant's statement and 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 October 8, 1984. Specifically, at the time of her interview, the applicant had the opportunity to list all of her employment during the requisite period. The applicant, however, did not put forth any employment prior to 1984. In addition, the applicant claims that she has been residing in the United States since 1981, but only provides affidavits from relatives and one acquaintance. [REDACTED] simply stated that she has known the applicant since 1981, but provided no details as to how and where they met, the nature of their interaction in subsequent years or the applicant's actual address during the period in question. The remaining affidavits are from the applicant's uncle and brother-in-law, and such individuals must be

viewed as having a obvious interest in the outcome of proceedings, rather than as independent, objective and disinterested third parties.

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 her 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.