



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] MSC 02 219 60630

Office: LOS ANGELES

Date: FEB 27 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:

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 on appeal. The appeal will be dismissed.

The director denied the application because the applicant had not demonstrated that he had continuously resided in the United States in an unlawful status since before January 1, 1982 through May 4, 1988.

On appeal, the applicant asserts that he lived at numerous addresses since his reentry into the United States in February 1981. The applicant submits copies of previously submitted documentation in support of the appeal.

It is noted that the director, in denying the application, did not address the evidence furnished initially or 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. Section 1104(c)(2)(B) of the LIFE Act; 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 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).

On a form to determine class membership, the applicant stated that he entered the United States without inspection on February 19, 1981. On his Form I-687, Application for Status as a Temporary Resident, which he signed under penalty of perjury on April 10, 1990, the applicant stated that he lived at [REDACTED] in Sepulveda, California from February 1981 until September 1989, and that he was "various[ly] employed" during the entire qualifying period. During his LIFE Act adjustment interview, the applicant stated that from 1981 to 1989, he lived with friends who helped him out, and that he moved from house to house. He further stated that he worked in construction, gardening, and other odd jobs during this time.

In an attempt to establish continuous unlawful residence since before January 1, 1982 through May 4, 1988, the applicant submitted the following evidence:

1. A May 3, 2002 affidavit from [REDACTED], in which she stated that she has known the applicant since 1980, and that the applicant lived with her family at [REDACTED] in Reseda "since he arrived" in the United States. We note that [REDACTED] implies that the applicant's stay with her family extended to more than 20 years. This statement is inconsistent with other statements in the record, including that of the applicant on his Form I-687 application and in his LIFE Act adjustment interview. 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).
2. A January 14, 2005 affidavit from [REDACTED], in which she stated that she has known the applicant since 1980, and that she met him when she hired him as a gardener.
3. A January 17, 2005 affidavit from [REDACTED] in which she stated that the applicant lived with her family from December 1980 to November 1984 at [REDACTED] in Huntington Park, California, and that he then moved to San Fernando City. This information is inconsistent with the information provided by the applicant on his Form I-687 (that he lived in Sepulveda throughout the qualifying period) and during his interview (he moved from house to house). This statement also conflicts with that of [REDACTED], who stated that the applicant lived with her family upon his arrival in the United States. *Id.*
4. A May 1, 2002 affidavit from [REDACTED] in which he stated that the applicant is his friend and that he has known the applicant since January 1985.
5. An April 2, 1990 affidavit certifying that the applicant left the United States in September 20, 1987 and returned on October 29, 1987. The name of the affiant is illegible.
6. A January 15, 2005 affidavit from [REDACTED] in which he stated that the applicant was his cousin and that they "started coming back around each other in 1987 when [the applicant] needed a place to stay and [the affiant] opened the doors to [his] home in the city of Sepulveda."

Several of the affiants stated that they had known the applicant since 1980 although, according to the information initially provided by the applicant, he first entered the United States in February 1981. On appeal the applicant now states that he first came to the United States in December 1980 but left 15 days after his arrival because his father was ill. The applicant states that he reentered in February 1981 and never had a stable address.

However, the applicant's statements on appeal cast doubt on those who submitted affidavits on his behalf. At least two of the affiants claimed that the applicant lived in their homes for a number of years after his arrival in the United States in 1980. None mentions a "re-entry" in February 1981. The applicant submitted no contemporaneous documentation of his presence and residency in the United States during the qualifying period, and submitted no independent corroborative documentation of his entry into the United States in December 1980 or February 1981.

Accordingly, given the absence of any contemporaneous documentation and the unresolved inconsistencies in the record, it is concluded that the applicant has failed to establish continuous residence in the U.S. for the required period.

The record reflects that the applicant filed another Form I-687 on May 25, 2006. The District Director, Los Angeles, California denied that application on July 24, 2006. The record does not reflect that the applicant has filed an appeal of that denial, and it is not at issue in this decision.

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