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U.S. Citizenship
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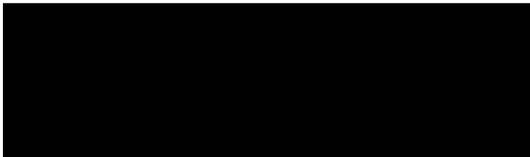
Date: JAN 19 2007

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.

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, Chicago, Illinois, 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 since before January 1, 1982 through May 4, 1988.

On appeal, counsel asserts that the director did not accord proper weight to the applicant's evidence and held the applicant to a higher standard of proof than that required by the statute and regulation. Counsel submits a brief 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. 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 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 an affidavit to determine class membership, which she signed under penalty of perjury on September 19, 1990, the applicant stated that she first entered the United States in March 1981. The applicant also stated that she left the United States on August 15, 1987 and returned as a visitor on September 5, 1987, overstaying the departure date of her visa approval. The applicant stated on a Form I-690, Application for Waiver of Grounds of Excludability, that she obtained her B2 nonimmigrant visitor's visa under false pretenses as she intended to remain in the United States on a permanent basis. On her Form I-687, Application for Status as a Temporary

Resident, which she signed under penalty of perjury on September 18, 1990, the applicant stated that she worked as a self-employed babysitter from August 1981 to September 5, 1987, the date of her last entry into the United States.

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

1. Two envelopes addressed to the applicant in the United States and bearing canceled Nigerian stamps in December 1980 and January 1981. We note that these dates are prior to the date that the applicant claimed that she first entered the United States. 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. An August 14, 1990 notarized statement from [REDACTED] in which he stated that he has known the applicant since she came to the United States in March 1981. Mr. [REDACTED] offered no further information about his initial acquaintance with the applicant, but stated that she had been "helpful to the people within this community and to our church" and that he had provided financial support to her on occasion.
3. A copy of the applicant's Nigerian passport, issued in Owerri on March 9, 1987, and which reflects that the applicant received a B1/B2 visa approval from the U.S. Consulate in Lagos in August 1987 for a single visit to accompany her father to the United States. The record is silent as to how the applicant was able to secure a passport in Nigeria in March of 1987, five months before her alleged departure from the United States on August 15, 1987.
4. An envelope bearing canceled Nigerian stamps in September 1984 and addressed to the applicant in the United States. The envelope does not reflect a return address. Furthermore, the stamps on this envelope are of the same issue and reflect the same price as stamps contained on an envelope with cancellation dates in 1990. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa application. *Matter of Ho*, 19 I&N Dec. at 591.

The applicant also submitted a notarized statement that is dated August 6, 1990; however, the document is not signed and does not indicate the author.

In response to the director's Notice of Intent to Deny (NOID) dated August 12, 2004, the applicant submitted copies of her medical records. All of the documents that purport to reflect medical treatment during the qualifying period contain dates (years) that are in original ink while all other information on the documentation indicates the documents are copies. The applicant also submitted a copy of an envelope address to her in the United States and reflecting a Nigerian postmark of 1983. The address on the envelope is not one that the applicant listed on her Form I-687 application.

Given the unresolved inconsistencies in the record, the lack of a documented work history, and the questionable documentation, it is concluded that he has failed to establish continuous residence in the U.S. for the required period.

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