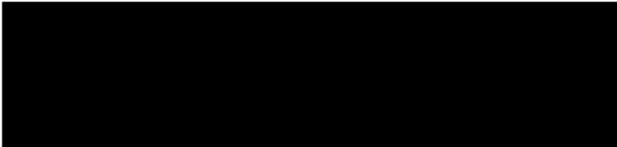


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Services

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FILE:



MSC 02 047 60979

Office: LOS ANGELES

Date:

MAR 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:

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.

A handwritten signature in black ink, appearing to read "Robert P. 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 provides copies of additional documents along with 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:

- An affidavit notarized March 5, 1991 from [REDACTED] of Panorama City, California, who attested to the applicant's residence in Los Angeles County since May 1981. [REDACTED] asserted that the applicant is a good friend of her mother's whom she (the mother) has known since 1980.

- An affidavit notarized March 1, 1991 from [REDACTED] who attested to the applicant's [REDACTED] address at [REDACTED] from May 1981 to April 1985. [REDACTED] asserted that she employed the applicant as a housekeeper and babysitter during this period. The applicant was paid \$50.00 per week plus room and board.
- An affidavit notarized March 13, 1991 from [REDACTED] who indicated that she has known the applicant since 1986 and attested to the applicant's North Hollywood address at [REDACTED] from April 1985 to December 1987.
- An affidavit notarized March 8, 1991 from [REDACTED], who indicated that he has known the applicant since October 1986 and attested to the applicant's Panorama City address at [REDACTED] from December 1987 to January 1991.
- A border crossing identification card and a B-2 non-immigrant visa issued on August 5, 1986. The applicant entered the United States on October 12, 1986.
- A California identification (ID) card issued on November 17, 1986, which lists the applicant's address as [REDACTED], Panorama City.
- A letter dated November 15, 1991 from a representative of the Los Angeles Mission College in San Fernando, California, indicating that the applicant was not receiving financial aid from its institution during the 1982-1983 academic year. It is noted that the letter has a received stamp dated September 2, 1982 from the Los Angeles Mission College Financial Aid Office.
- Three statements dated November 6, 1983, December 10, 1983, and March 5, 1984 addressed to EOPS Peer Advising Office from a Financial Aid Office, indicating that the applicant has kept her commitment to her peer advisor.
- A Counseling Interview document dated January 17, 1985 regarding the applicant's progress and educational objective. The document indicated that the applicant's education objective was in business and her expected date of completion was June 1987.
- Documents titled "Counseling Bulletin 2" and "Financial Aid Evaluation of Eligibility" dated January 17, 1985 from the Los Angeles Mission College Financial Aid Office. The Financial Aid document indicated that the applicant attended semesters during the summer and fall of 1984 and the spring of 1985.
- An uncertified Form 1040EZ for 1982.
- Earnings statements for the pay periods ending September 13 and 27, 1987, October 25, 1987 and November 8, 1987.

On her Form I-687 application, the applicant indicated that she departed to Mexico on August 1, 1986 and October 9, 1986 and returned to the United States on August 10, 1986 and October 12, 1986, respectively. The applicant also indicated on her Form I-687 application that she was self-employed as a housekeeper from April 1985 to June 1988.

On April 20, 2004, the director issued a Form I-72, requesting that the applicant submit: 1) official school transcripts from the Los Angeles Mission College as the dates on the school letter conflicted with each other; 2) a printout of her earnings from the Social Security Administration as the documents from the Los Angeles Mission College and earnings statements listed social security numbers; and 3) evidence from each affiant establish their presence in the United States during the requisite period. In response, the applicant asserted that at the time she reentered the United States as a non-immigrant, she was returning to an unrelinquished unlawful residence. The applicant submitted an additional copy of the affidavit from [REDACTED] along with the affiant's California ID card issued on July 2, 1981, which listed her address at [REDACTED] Pacoima. The applicant also submitted:

- A declaration dated July 8, 2004 from [REDACTED] of Van Nuys, California, who indicated that she met the applicant in 1982 while attending a prayer group at Mary Immaculate Church in Pacoima. The affiant asserted that she has maintained a friendship with the applicant since that time.
- A declaration dated July 8, 2004 from [REDACTED] and [REDACTED] of Arleta, California, who indicated that they met the applicant in 1981 while attending a prayer group at their parish, Saint Elizabeth in Van Nuys. The affiants asserted that they have maintained a friendship with the applicant since that time.
- A declaration dated July 6, 2004 from [REDACTED] of San Fernando, California, who indicated that she has known the applicant since 1981. [REDACTED] asserted that she met the applicant through a mutual friend. The affiant asserted that she has maintained a close friendship with the applicant since that time.
- A declaration dated July 6, 2004 from [REDACTED] of North Hills, California, who indicated that she met the applicant in 1981 while attending a prayer group at Saint Elizabeth Church in Van Nuys. The affiant asserted that she has maintained a friendship with the applicant since that time.
- A declaration dated June 30, 2004 from [REDACTED] of Van Nuys, California, who indicated that he met the applicant in 1981 at a birthday party at his home. The affiant asserted that he has maintained a close friendship with the applicant since that time.
- A declaration dated June 30, 2004 from [REDACTED] of North Hills, California, who indicated that he met the applicant in 1981 while attending a prayer group at Saint Ignacio Deloyola in Highland Park. [REDACTED] asserted that he and the applicant have attended prayer group meetings at different parishes throughout the years. The affiant asserted that he has maintained a close friendship with the applicant since that time.

The director, in her Notice of Intent to Deny dated November 9, 2004, advised the applicant that the affidavits submitted from the affiants were too vague and the affiants had failed to provide corroborative evidence to substantiate their claims. The applicant was also advised of her failure to submit the requested printout from the Social Security Administration and the official school transcript from the Los Angeles Mission College. The director determined that the documents from the Los Angeles Mission College were inconsistent and lacked credibility. Regarding the Form 1040EZ for 1982, the director indicated that the form lacked credibility as no credible evidence had been provided that said form had in fact been filed.

In response, the applicant asserted that except for the declarations issued by the affiants, she had no further evidence to establish her presence in the United States during the period in question. The applicant once again failed to provide and/or address the issues regarding the requested printout from the Social Security Administration and the official school transcript from the Los Angeles Mission College.

While the applicant has submitted sufficient evidence from the affiants to establish their presence in the United States during the requisite period, the AAO does not view the documentation discussed above as substantive enough to support a finding that the applicant continuously resided in the United States during the requisite period. Specifically:

1. The fact that the applicant has not provided the requested documentation or addressed these issues tends to negate any credibility of the applicant's claim to have been employed from September to November 1987 and attended the Los Angeles Mission College.
2. The applicant presented earnings statements issued during 1987; however, the applicant claimed to have been self-employed during this time and did not list this employment on her Form I-687 application.
3. The applicant, on her Form I-687 application, claimed to have resided at [REDACTED] #5, North Hollywood from April 1985 to December 1987. However, her California ID card issued in November 1986 indicated she resided at [REDACTED], Panorama City.
4. Because [REDACTED] claimed to have known the applicant since 1986, she cannot attest to the applicant's alleged residence during 1985.
5. [REDACTED] and [REDACTED], [REDACTED] and [REDACTED] all attested to have known and maintained a friendship with the applicant since 1981 or 1982, but failed to provide the applicant's address during the period in question.
6. The applicant claimed to have been self-employed from April 1985 to June 1988, but provided no credible evidence to support her claim.

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 and absence of a plausible explanation, 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.