



U.S. Citizenship
Immigration
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FILE:

MSC 02 099 62811

Office: NEW YORK

Date: MAY 29 2007

IN RE:

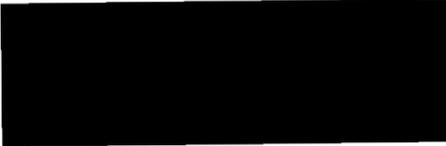
Applicant:



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, New York, New York, 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. Section 1104(c)(2)(B) of the LIFE Act; 8 C.F.R. § 245a.11(b).

On appeal, the applicant states the director failed to consider the additional evidence that she submitted in support of her application, and that she had submitted “plenty of evidence” to establish her continuous residence in the United States for the requisite period. The applicant submitted copies of previously submitted documentation.

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, which she signed on November 16, 1989, the applicant stated that she had been living in the United States continuously since prior to January 1, 1982, and that she left the United States in May 1987 and returned in June of that year. On her Form I-687, Application for

Status as a Temporary Resident, which she signed under penalty of perjury, the applicant stated that during the qualifying period, she had lived at the [REDACTED] in St. Albans, Queens, New York, from May 1981 to June 1987, at [REDACTED] in Queens from June 1987 to April 1988, and at [REDACTED] in Queens from April 1988. The applicant also stated that she was out of United States from May 1987 to June 1987, when she visited her family in Trinidad. In support of her Form I-687 application, the applicant submitted a copy of a Form I-94 reflecting that the applicant entered the United States pursuant to a B-2 nonimmigrant visitor's visa on June 6, 1987. The applicant's admission was valid until December 5, 1987.

The record does not reflect that the applicant submitted any documentation in support of her Form I-485, Application to Register Permanent Resident or Adjust Status. In her LIFE Act adjustment interview, the applicant stated that she arrived in the United States in 1982, and lived in Jamaica, New York with a friend of her mother's.

In response to the director's Notice of Intent to Deny (NOID) dated February 25, 2004, the applicant resubmitted the copy of the 1987 Form I-94. The applicant also submitted a sworn statement from [REDACTED] dated April 2, 2004, in which she stated that the applicant was introduced to her in January 1982 by Ms. [REDACTED], with whom the applicant was living. The applicant also submitted an April 2, 2004 sworn statement from her sister, in which she stated that the applicant came to live with her in June 1987, following her return from Trinidad and Tobago.

The applicant provided no evidence to establish that she entered the United States prior to January 1, 1982, and provided only minimum evidence of her presence and residency in the United States subsequent to that date. Furthermore, on her Form G-325A, Biographic Information, which she signed under penalty of perjury on August 23, 2001, the applicant stated that she had lived in Trinidad until 1982.

Given the absence of any documentation to establish her entry into the United States prior to January 1, 1982 and her own admission that she arrived in 1982, the applicant 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.