

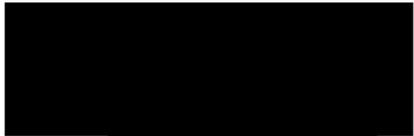
identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy



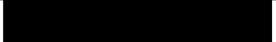
U.S. Citizenship  
and Immigration  
Services

PUBLIC COPY

L2



FILE:



Office: HARTFORD

Date: SEP 06 2007

MSC 02 208 62420

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. If your appeal was sustained, or if the matter was remanded for further action, you will be contacted. If your appeal was dismissed, you no longer have a case pending before this office, and you are not entitled to file a motion to reopen or reconsider your case.

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, Buffalo, 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.

On appeal, the applicant asserts that the director erred in denying her application as she has met her burden of proof "by being physically present in the US during the time in question." The applicant submits no additional documentation 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 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.

The applicant submitted no documentation to support her claim that she resided continuously in the United States in an unlawful status since before January 1, 1982 through May 4, 1988. In response to the director's Notice of Intent to Deny dated January 12, 2004, the applicant stated that her apartment burned down in 2001, and that "store in [her] apartment were exactly the documents and proof you are looking for today." The applicant submitted a letter to establish that she had resided in an apartment in Danbury, Connecticut since February 1993, and that apartment was destroyed by fire on March 31, 2001. On appeal, the applicant implies that evidence that her home was destroyed is sufficient to establish her eligibility under the LIFE Act.

The regulation at 8 C.F.R. § 245a.2(d)(3)(vi)(L) provides an illustrative list of contemporaneous documents that an applicant may submit to establish eligibility under the LIFE Act. However, the list permits the submission of affidavits and any other relevant documentation.

The applicant submitted no evidence of her presence or residency in the United States during the requisite period. Although she alleges that her documentation was destroyed in a fire in 2001, the applicant submitted no evidence of her residency and presence in the United States when she filed her Form I-687, Application for Status as a Temporary Resident, in 1991. The applicant submitted no affidavits or statements from those who could attest to her presence in the United States during the qualifying period and no letters of verification from employers certifying her employment.

Given the absence of any documentation, 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.