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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

PUBLIC COPY



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FILE:

MSC 01 306 60168

Office: LOS ANGELES

Date:

SEP 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. 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, 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 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 states that she believes her case was denied in error as she timely responded to the Notice of Intent to Deny (NOID) and submitted the requested documents. 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.

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).

During her LIFE Act adjustment interview, the applicant stated that she first arrived in the United States with her parents in 1979 when she was four years old. The applicant's Form I-687, Application for Status as a Temporary Resident, was signed by her mother, and indicated that the applicant lived at the following addresses in California during the requisite period:

February 1979 to December 1980



December 1980 to December 1981
December 1981 to August 1984
August 1984 to October 1984

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 State of California Health and Welfare Agency consent form signed by the applicant's mother on October 31, 1980.
2. A January 9, 1997 letter from Ideal Landscape signed by [REDACTED], in which he certified that the applicant's father worked part-time "off and on" for the company since 1980. [REDACTED] did not identify his position with the company, and did not state whether the information regarding the applicant's work was taken from company records or state the applicant's address at the time he worked for the company, as required by 8 C.F.R. § 245a.2(d)(3)(i).
3. Copies of the certificates of baptism for the applicant's sisters from St. Anthony's Church in Riverside, California on September 13, 1980 and March 7, 1981.
4. A copy of a May 21, 1981 California identification card for the applicant's mother, with her address listed as [REDACTED].
5. A copy of a rental receipt issued to the applicant's mother, signed by [REDACTED] for rent of [REDACTED] for September 9 to October 9, 1981.
6. A copy of a 1981 Form 540, California Individual Income Tax Return, for the applicant's parents. The document is not signed by either of the taxpayers, and the record does not indicate that it was ever filed with the appropriate tax authority. The document shows the family's address as [REDACTED]. We note that the applicant's mother indicated that the family lived at [REDACTED] on the applicant's Form I-687 application.
7. A copy of a Moreno Valley Unified School District Elementary Registration record dated September 1981, showing that the applicant entered kindergarten on September 15, 1981. The applicant's address was listed as [REDACTED]. The applicant's mother signed the school record. This information is inconsistent with the information provided by the applicant's mother on the Form I-687 application in which she stated that the applicant lived at 13690 Hwy. 395, Apt. 1, in Riverside, California. The school record also reflects that the applicant's brother, born in 1973, was in the third grade.
8. A copy of a Moreno Valley Unified School District Elementary Registration record for Case Kindergarten Center in Sunnymead. The document is not signed, but indicates that the applicant was entered from March 23, 1982 to June 7, 1982, and shows she was in kindergarten for 1981 and 1982. The document indicates that the applicant transferred from the Edgemont School, and that her older brother was in the second grade.
9. A copy of a June 3, 1982 Case Kindergarten report to the applicant's parents.

10. A copy of a receipt issued to [REDACTED] for rent of apartment [REDACTED]. The receipt indicates that the remitter "owes rent for Jan., Feb. 1983." The date of the receipt is shown as March 3, 1983; however, the year appears to have been altered. In a request for evidence dated May 22, 2007, the AAO requested that the applicant submit the original of the receipt. The applicant failed to respond to the request.
11. A copy of an undated letter from the Moreno Valley Unified School District, signed by [REDACTED], who identified herself as a bilingual kindergarten teacher at Edgemont Elementary School. [REDACTED] stated that the applicant was enrolled in her class "for a full year" in 1984.
12. Copies of Moreno Valley Unified School District Reports for the school years 1984-1985 and 1985-1986. The documents show that the applicant was in the second and third grades at Edgemont. We note that the school's name is misspelled on the 1984-1985 report. The applicant also submitted a copy of a Moreno Valley United School District progress report for the applicant for the 1985-1986 school year.
13. A copy of a June 4, 2001 letter from the Edgemont Academy of Production and Publication, signed by [REDACTED] who identified herself as the principal. The letter stated that the applicant was a student at Edgemont from 1984 to 1986. The record is not clear as to the relationship between the Edgemont Academy of Production and Publication and Edgemont Elementary School, listed as part of the Moreno Valley Unified School District.
14. A copy of the applicant's child's identification card issued on September 23, 1984, showing her address as [REDACTED]. This address does not correspond with any listed on the Form I-687 application at which the applicant's mother stated that she lived.
15. A copy of a 1986 California identification card for the applicant's mother, showing an address of [REDACTED] A in Edgemont, California.
16. A copy of a June 20, 1986 certificate of achievement issued to the applicant. The certificate does not indicate an organization or other entity that sponsored the award.
17. A copy of a December 6, 1986 certificate indicating that the applicant received communion for the first time at St. Christopher's Church. The document does not indicate where St. Christopher's Church is located.

A copy of the applicant's immunization record contains an entry from the Riverside Health Center. However the full date of the entry, sometime in the 1980s, is illegible.

In response to a Form I-72 request for evidence issued by the district office on November 10, 2004, the applicant submitted a September 5, 2002 letter from the Moreno Valley Unified School District, and signed by [REDACTED] secretary of child welfare and attendance. The letter indicated that the "cum" records of the applicant had been destroyed but that [REDACTED] had "verified with the schools of attendance" that the applicant had attended Edgemont Elementary from 1984 to 1988. [REDACTED] did not indicate how the individual schools verified the applicant's attendance, and the applicant did not submit records from Edgemont Elementary School of her attendance. [REDACTED] further stated, "The mother of these student's [sic] has report cards and various information which I verified to be the District's original

copies.” The record is unclear as to the “original copies” referred to by [REDACTED]. We note that in her list of evidence, the applicant stated that she was submitting a copy of her report card for 1983/1984; however, it was not included in the record. The applicant failed to submit this document in response to the AAO’s May 22, 2007 request for evidence.

The applicant’s evidence regarding her schooling during the qualifying period presents a confusing and illogical picture. According to the evidence, the applicant, who was born in 1975, attended kindergarten until at least 1984, when she was approximately nine years old. The evidence also indicates that the applicant was also in the second grade in 1984. Additionally, the applicant submitted a letter from Edgemont Academy of Production and Publication, which has no apparent relationship to an elementary school. Yet the principal stated that the applicant attended school there for three years. According to a letter from the Moreno Valley Unified School District, the applicant’s cumulative records were destroyed less than ten years following her last attendance at the school. Although the secretary of child welfare and attendance purports to have verified the applicant’s attendance, the record is not clear as to what records were used to provide the verification. 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. 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. 582, 591 (BIA 1988).

Additionally, the information provided regarding the applicant’s residence addresses during the qualifying period varies. While the street addresses are consistent, the applicant’s mother, who provided most of the information, was inconsistent as to which street numbers the family resided. While one receipt tends to support the mother’s claim of living at one particular address, the applicant failed to respond to a request to submit original documentation to verify other information in the record.

Accordingly, given the unresolved inconsistencies in the record, it is concluded that the applicant has not established by a preponderance of the evidence that she resided continuously in the United States in an unlawful status from prior to January 1, 1982 to May 4, 1988.

The record reflects that the applicant was arrested on May 13, 2002 and charged with a violation of California Penal Code ~~273.5~~, inflicting corporal injury on a spouse. The prosecutor declined to file a complaint in the case.

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