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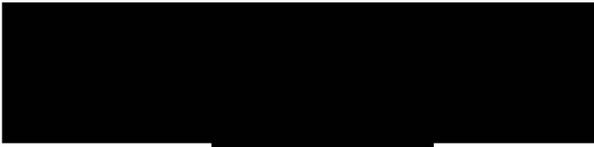
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:

MSC 02 249 60519

Office: LOS ANGELES

Date:

APR 02 2008

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. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits [or Records] Center. 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. If your appeal was sustained or remanded for further action, you will be contacted.

Robert P. Wieman, 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, 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 failed to demonstrate that she entered the United States before January 1, 1982, and resided in a continuous unlawful status through May 4, 1988.

On appeal, applicant asserts that she has lived in the United States for over 20 years. She requests that her application be reconsidered. She provides additional evidence in support of her claim. The evidence consists of one affidavit and tax records from years after the requisite period.

Section 1104(c)(2)(B) of the LIFE Act states:

(i) In General – The alien must establish that the alien entered the United States before January 1, 1982, and that he or she has resided continuously in the United States in an unlawful status since such date and through May 4, 1988. In determining whether an alien maintained continuous unlawful residence in the United States for purposes of this subparagraph, the regulations prescribed by the Attorney General under section 245A(g) of the Immigration and Nationality Act (INA) that were most recently in effect before the date of the enactment of this Act shall apply.

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 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).

In the Notice of Intent to Deny (NOID), dated on February 2, 2006, the director stated that the applicant failed to establish that she entered the United States before January 1, 1982, and resided in continuous unlawful status since that date through May 4, 1988. The director noted inconsistencies with the applicant testimonial and the affidavit from [REDACTED] regarding the applicant's residences in the United States in March 1981. The director granted the applicant thirty (30) days to submit additional evidence. The record reflects that no additional evidence was received.

In the Notice of Decision, dated May 4, 2006, the director denied the instant applicant based on the reasons stated in the NOID. The record reflects that the applicant submitted additional evidence.

The issue in this proceeding is whether the applicant has furnished sufficient credible evidence to demonstrate that she continuously resided in the United States in an unlawful status during the requisite period. Here, the applicant has failed to meet this burden.

The record contains a sworn affidavit by [REDACTED] dated March 13, 1990. Ms. [REDACTED] stated that the applicant resided at [REDACTED] in Fresno, California, from March 4, 1981 to December 2, 1981 and at [REDACTED] in Reseda, California, from December 9, 1981 to October 6, 1986. Ms. [REDACTED] provided her address of residence. Although not required, the affidavit failed to include any supporting documentation of the affiant's presence in the United States.

It is noted that the record includes a Form I-687, Application for Temporary Resident Status pursuant to Section 245A of the Immigration and Nationality Act, signed by the applicant under penalty of perjury. In her Form I-687, the applicant stated that she resided at [REDACTED] in Canoga Park, California, from November 1981 to October 1986. The applicant's statement contradicts the statement of [REDACTED]

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). The record contains no independent objective evidence to explain the above inconsistency.

The record also contains a sworn affidavit by [REDACTED], dated June 26, 2006. Ms. [REDACTED] stated that she has known the applicant since 1982. She stated that she met the applicant through their husbands and visited each other frequently through the years. Ms. [REDACTED] provided her address of residence. Although not required, the affidavit failed to include any supporting documentation of the

affiant's presence in the United States. The affiant also failed to state the applicant's address during the requisite period. The affidavit provides minimal probative value.

The applicant has only two affidavits in support of her application. One affidavit contains information that is inconsistent with the applicant's own statements. The other affidavit lacks sufficient detail to corroborate the applicant's claim. The applicant has not provided sufficient contemporaneous evidence of residence in the United States during the duration of the requisite period. Pursuant to 8 C.F.R. § 245a.12(e), the inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. Given the applicant's reliance upon documents with discrepancies and minimal probative value, it is concluded that she has failed to establish continuous residence in an unlawful status in the United States during the requisite period.

Therefore, based on the above, the applicant has failed to establish entry into the United States prior to January 1, 1982, and continuous unlawful residence through May 4, 1988 as required under Section 1104(c)(2)(B) of the LIFE Act. Given this, she 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.