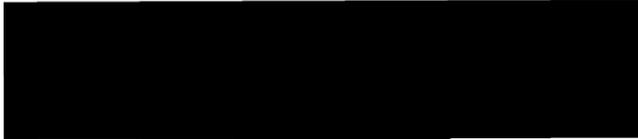




U.S. Citizenship
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Services

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FILE:

MSC 02 158 60324

Office: MIAMI

Date: FEB 27 2008

IN RE: Applicant:



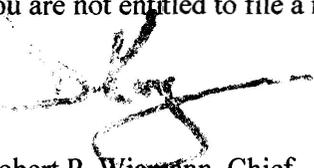
APPLICATION: Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), amended by Life Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000).

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has been returned to the National Benefits Center. 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, Miami, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application because the applicant failed to establish that she entered the United States before January 1, 1982, and that she resided continuously in the United States in an unlawful status since that date through May 4, 1988.

On appeal, applicant requests that her application be reconsidered. She attaches a statement explaining her situation and reasons for her appeal.

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.* at 80. 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, 431 (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).

At issue in this proceeding is whether the applicant has submitted sufficient credible evidence to meet her burden of establishing entry into the United States before January 1, 1982, and continuous unlawful residence in the United States during the requisite period. Here, the applicant has failed to meet this burden.

In the Notice of Intent to Deny, dated August 6, 2003, the director stated that the applicant failed to submit credible documentary evidence establishing her claimed entry into the United States before January 1, 1982, and continuous unlawful residence during the requisite period. The director granted the applicant thirty (30) days to submit a rebuttal or additional evidence. The applicant submitted a letter requesting a review of her file, but she did not submit any additional evidence.

In the Notice of Decision, dated February 22, 2005, the director determined that evidence in the record failed to establish the applicant's claim. The director denied the instant application and determined that the applicant was ineligible for adjustment of status under LIFE Legalization.

The record contains a notarized letter by [REDACTED] dated July 12, 1991. [REDACTED] stated that the applicant resided at her house [REDACTED] (in Tampa, Florida) from February 1986 to August 1989. The applicant worked as a babysitter and housekeeper. The affiant submitted her telephone bill and utility bills, dated in 1987 and 1988, as evidence of her residence at the above address. In another notarized letter, dated July 12, 1991, [REDACTED] stated that the applicant left the United States in October 1987 until November 1987 due to a family emergency. While this evidence appears to corroborate the applicant's claim, it does not establish that the applicant entered the United States prior to January 1, 1982, and continuously resided in an unlawful status through the duration of the statutory period.

The record contains a notarized letter by [REDACTED] dated July 10, 1991. [REDACTED] stated that the applicant resided in his home from 1981 to the end of 1985. The affiant stated that she worked as a housekeeper and took care of the affiant's aging father. No contemporaneous evidence was submitted to substantiate his claim. Although not required, the letter did not include any supporting documentation of the affiant's identity or presence in the United States.

The record also contains a notarized letter by [REDACTED] dated July 20, 1991. [REDACTED] stated that she has known the applicant since 1982. She also stated that the applicant worked for her as a babysitter from October 1989 until December 1989. [REDACTED] provided her telephone number and naturalization certificate number. No contemporaneous evidence was submitted to substantiate her claim. Although not required, the letter did not include any supporting documentation of the affiant's identity or presence in the United States. [REDACTED] failed to indicate how she dated her acquaintance with the applicant, how she met the applicant or how frequently she saw the applicant.

The applicant has not provided any credible, contemporaneous evidence of entry into the United States before January 1, 1982, and continuous unlawful residence in the United States through the duration of the requisite period. As stated previously, the evidence must be evaluated not by the quantity of evidence alone but by its quality. The absence of sufficiently detailed and supported documentation to corroborate the applicant's claim of continuous residence for the entire requisite period seriously detracts from the credibility of her claim. Pursuant to 8 C.F.R. § 245a.2(d)(5), 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 minimal probative value, it is concluded that she has failed to establish continuous residence in an unlawful status in the United States from prior to January 1, 1982, through May 4, 1988.

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.