



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**



L2

FILE: [Redacted]
MSC 02 242 63384

Office: LOS ANGELES

Date: APR 13 2007

IN RE: Applicant: [Redacted]

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, Los Angeles, California, 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 had not demonstrated that she had continuously resided in the United States in an unlawful status from before January 1, 1982 through May 4, 1988.

On appeal, the applicant that she has submitted sufficient documentation establishing continuous residence in the United States from prior to January 1, 1982 through May 4, 1988.

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. 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 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 an attempt to establish continuous unlawful residence since before January 1, 1982 through May 4, 1988, the applicant provided the following evidence:

- Her daughter's January 9, 1985 birth certificate and immunization record, which reflected vaccinations given in Riverside County, California from June 1985 through January 13, 1987.

- An affidavit dated November 30, 1988 from [REDACTED] of Palm Springs, California, who attested to the applicant's residence from November 1981 to September 1983 in Costa Mesa and in Palm Springs since September 1983 at 524 and [REDACTED] Ms. [REDACTED] asserted that the applicant has been her neighbor since September 1983.
- An affidavit dated November 30, 1988 from [REDACTED] of Palm Springs, California, who attested to the applicant's residence in Palm Springs since September 1983 at 524 and [REDACTED] Mr. [REDACTED] indicated that the applicant has been his neighbor since September 1983.
- A California identification card issued on October 16, 1984, which listed the applicant's address as [REDACTED], Palm Springs.
- A letter dated December 2, 1988 from [REDACTED] general manager of [REDACTED] in Palm Springs, California, who indicated that the applicant was employed from March 26, 1985 to January 6, 1986.
- A statement dated December 1, 1988 from [REDACTED] of [REDACTED] Hotel in Palm Springs, California, who indicated that the applicant was employed for approximately five to six months in 1986.
- 1986 wage and tax statements from [REDACTED] and [REDACTED]
- A 1987 wage and tax statement from [REDACTED] in Palm Springs, California. The applicant indicated on her Form I-687 application employment with [REDACTED] from January 1987 to August 1987.
- An undated statement from [REDACTED], who attested to the applicant's residence and moral character.

On February 24, 2004, the director issued a Form I-72, advising the applicant to submit a social security earnings printout for 1981 to 1984. The record, however, contains no response from the applicant regarding this request.

On September 22, 2004, the director issued a Notice of Intent to Deny, advising the applicant that she had "furnished no documentation in support of your claim of residency other than affidavits/statements for the years 1981, 1982, and 1983. You submitted no documentation at all for the year 1988."

The applicant, in response, submitted:

- A notarized affidavit from [REDACTED] of Cathedral City, California, who indicated that he first met the applicant through her husband in 1984 in Palm Springs. The affiant asserted that he has remained friends with the applicant since that time.
- A notarized affidavit from [REDACTED] of Indio, California, who indicated that she first met the applicant in 1983 at time the applicant moved into her neighborhood in Palm Springs. The affiant asserted that her mother would take her to the applicant's home "to take care of us. We would go to birthday parties in the neighborhood and she [the applicant] would be there."

- A notarized affidavit from [REDACTED] of Thousand Palms, California, who indicated that he first met the applicant in 1986 in Palm Springs. The affiant indicated that visited the applicant and her spouse at their home and once a week he and the applicant's spouse would play soccer in the park.
- Notarized affidavits from [REDACTED] and [REDACTED] of Cathedral City, California, who indicated that they first met the applicant in 1983 in Palm Springs. The affiants asserted that they were a neighbor of the applicant and that the applicant used to take care of their children during the week.
- A notarized affidavit from [REDACTED] Magana of Desert Hot Springs, California, who indicated that she first met the applicant in September 1981 in Palm Springs. The affiant asserted that she hired the applicant to work as a maid in the [REDACTED] Hotel in Palm Springs. The affiant asserted that she and the applicant worked together at the [REDACTED] Hotel until 1984.
- A notarized affidavit from [REDACTED] of Cathedral City, California, who indicated he has known the applicant since she moved became his neighbor in Palm Springs. The affiant asserted that he would see the applicant everyday and is the God-father of the applicant's eldest daughter.
- A notarized affidavit from [REDACTED] of Cathedral City, California, who indicated that she met the applicant through a friend in 1980 and attended parties together. The affiant asserted that she is the God-mother of the applicant's eldest daughter.
- A notarized affidavit from [REDACTED] of Cathedral City, California, who indicated that she and the applicant both came to Palm Springs in 1980 and were neighbors.
- A notarized affidavit from [REDACTED] of Palm Springs California, who indicate that he first met the applicant in 1980 in Palm Springs. The affiant asserted that he visited the applicant's home on several occasions.
- A notarized affidavit from [REDACTED] of Palm Springs, California, who indicated that he first met the applicant in 1980 in Palm Springs. The affiant asserted that in 1980, the applicant rented one of his duplexes for 11 years.
- A letter dated October 5, 2004 from Reverend [REDACTED] pastor of [REDACTED] in Palm Springs, California, who indicated that he has known the applicant for the past seven years and that the applicant has been a member of the parish since 1980.
- A notarized affidavit written in the Spanish language with the required English translation from [REDACTED] of Cathedral City, California. The affiant indicated that she has known the applicant since 1981;
- Her daughter's baptism certificate dated October 6, 1985 along with several photographs taken at the time of the baptism.
- Photographs the applicant claimed were taken at Disneyland in March 1981, and at her 1984 baby shower.

The director, in denying the application, noted, in part:

All the affiants have stated that they have knowledge that you resided in the city of Palm Springs for all of the years in question. This information provided by the affiants contradicts the information you provided during your interview under oath and on the Application for Status as a Temporary Resident (Form I-687), where you indicate you entered the United States for the first time in 1981 and that you resided at: [REDACTED] from 1981 to 1983.

The applicant, on appeal, asserted, in part:

The person that filed this application for me was [REDACTED] of Catholic Charities Immigration Services. I did not notice that she listed an address that I never lived at when she prepared the application for me. I now understand that there is a conflict in evidence because of the mistake of listing an address for me in Costa Mesa, CA. I never lived in Costa Mesa, CA with my husband [REDACTED]. He lived in Costa Mesa, CA but moved in with me on or about February 1981 at [REDACTED] in Palm Springs, CA. We lived there until we moved a short distance away at [REDACTED] in Palm Springs, CA shortly before my application on Form I-687 was prepared by Ms. [REDACTED]. We later moved to [REDACTED] in Palm Springs, CA. I do not believe that my application for status of temporary residence should be denied because of a simple mistake of the preparer of the application, [REDACTED].

The applicant also submits a declaration from her spouse, who reaffirms the applicant's assertion that the applicant never resided in Costa Mesa, California, and a lease agreement entered into on September 20, 1990.

The applicant has presented sufficient evidence to establish continuous unlawful residence from September 1983 through August 1987. The AAO, however, does not view the remaining documentation as substantive enough to support a finding that the applicant continuously resided in the United States since before January 1, 1982 through September 1983 and from September 1987 through May 4, 1988. Specifically:

1. The affidavit from [REDACTED] raises questions of credibility as she indicated that the applicant was employed at the [REDACTED] Hotel from 1981 through 1984; however, the applicant did not claim this employment on her Form I-687 application. In fact, the applicant claimed no employment on her Form I-687 application until March 1985.
2. The letter from Reverend [REDACTED] has little evidentiary weight or probative value as it does not conform to the basic requirements specified in 8 C.F.R. § 245a.2(d)(3)(v). Most importantly, it contradicts the applicant's claim on her Form I-687 application to have been a member of the parish since September 1983.
3. Mr. [REDACTED], Mr. [REDACTED], and [REDACTED] all attest to the applicant's residence in Palm Spring since 1980. However, the applicant did not claim residence in the United States until February 1981.
4. The photographs submitted have no identifying evidence that could be extracted which would serve to either prove or imply that photographs were taken in the United States during the requisite period.
5. The applicant's statement, on appeal, has been considered; however, she has not presented any *credible* evidence, such as a lease agreement, rent receipts, utility bills or any contemporaneous

documentation to establish her residence in Palm Springs prior to September 1983. Simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

6. In a signed statement dated September 20, 2004, the applicant indicated that she first entered the United States in January 1980 and worked at [REDACTED] Hotel from 1980 to 1984. However, on her Form I-687 application, the applicant did not claim residence in the United States prior to February 1981 or employment prior to March 1985.
7. In the signed statement dated September 20, 2004, the applicant also claimed to have resided in Palm Spring at [REDACTED] from 1980 to 1990. This contradicts the applicant's claim of residence on her Form I-687 application as well as her declaration on appeal to have resided at [REDACTED] in Palm Springs since 1981.

Doubt cast on any aspect of an applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence. It is incumbent upon an applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I. & N. Dec. 582 (BIA 1988).

Given the credibility issues arising from the documentation provided by the applicant, it is determined that the applicant has not met her burden of proof. The applicant has not established, by a preponderance of the evidence, that he entered the United States before January 1, 1982 and resided in this country in an unlawful status continuously from before January 1, 1982 through May 4, 1988, as required under 1104(c)(2)(B)(i) of the LIFE Act and 8 C.F.R. § 245a.11(b). Given this, the applicant 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.