

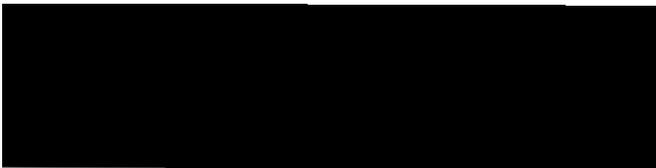


U.S. Citizenship
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FILE: [Redacted] MSC 02 240 67246

Office: LOS ANGELES

Date: MAY 08

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:

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. 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 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 since before January 1, 1982 through May 4, 1988.

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

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

1. An undated and unsworn letter from [REDACTED] who is identified in the record as the applicant's cousin [REDACTED] stated that the applicant worked as her part-time babysitter from [REDACTED]

November 1981 to March 1986. [REDACTED] further stated in separate undated and unsworn affidavits that the applicant had lived with her at her home at [REDACTED] California from November 1981 to May 1986, and at [REDACTED] in Bell, California from June 1986 to the "present."

2. A May 8, 2004, sworn affidavit from [REDACTED] who stated that she is the applicant's cousin and that the applicant came to the United States in November 1981.
3. A May 10, 2004 sworn affidavit from [REDACTED] who stated that he met the applicant in December 1981 at a party. [REDACTED] stated that he is a friend of [REDACTED] husband, and that he saw the applicant when he visited the [REDACTED] home.
4. A June 5, 2004 sworn affidavit from [REDACTED] who stated that he is the husband of [REDACTED] the applicant's cousin. [REDACTED] stated that "since November 1981 my wife and I often invited her to our home to spend time with our family."
5. A June 5, 2004 sworn affidavit from [REDACTED] who stated that she is the applicant's aunt. [REDACTED] stated that the applicant came to the United States in November 1981, a month after the affiant arrived.
6. A June 11, 2004 sworn affidavit from [REDACTED] who stated she is the applicant's aunt by marriage. [REDACTED] stated that she has "always been in communication" with the applicant since she first came to the United States in November 1981.
7. An undated and unsworn letter from [REDACTED] who stated that the applicant worked as her part-time babysitter from April 1986 to March 1989.

The applicant in this case asserts that she has resided continuously in the United States since November 1981. However, beyond the possible exception of the unsworn statement of [REDACTED] she has provided no evidence of her presence and residency in the United States beyond affidavits of family members and family friends. The applicant submitted no contemporaneous documentation to establish that she resided in the United States prior to 1989.

Given the absence of any contemporaneous documentation, together with the lack of corroboration of her residency by disinterested third parties, we find that the applicant has failed to establish continuous residence in the United States for the required period.

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