



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] Office: LOS ANGELES Date: MAY 09 2006
MSC 01 324 60589

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 sustained.

The district director denied the application because the applicant had not demonstrated that he had continuously resided in the United States in an unlawful status since before January 1, 1982 through 1985.

On appeal, the applicant provides copies of previously submitted documents. The applicant also submits a copy of his second son's immunization record, which reflects vaccinations given on November 15, 1983 and May 25, 1985 in Mexico.

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:

- Affidavits notarized in May 1990 from [REDACTED] and [REDACTED] of Huntington Park, California who attested to the applicant's residence in Los Angeles, California since 1981. The affiants indicated that they were from the same town as the applicant, and have remained friends with the applicant since his entry into the United States.

- Affidavits notarized May 16, 1990 from [REDACTED] and [REDACTED] of Huntington Park, California who attested to the applicant's residence in Los Angeles, California since February 1981. The affiants indicated that they have remained friends with the applicant same since that time.
- An affidavit notarized May 16, 1990 from a brother, [REDACTED] of Huntington Park, California, who attested to the applicant residence in Los Angeles, California since August 1981
- An affidavit notarized May 16, 1990 from [REDACTED] of Huntington Park, California, who attested to the applicant's residence in Los Angeles, California since 1980. [REDACTED] indicated that he was from the same town as the applicant, and has been in continuous contact with the applicant for many years.
- An affidavit notarized May 16, 1990 from [REDACTED] of Compton, California, who attested to the applicant's residence in Los Angeles, California since 1981. [REDACTED] indicated that he was from the same the same town as the applicant and was a roommate.
- An affidavit notarized May 14, 1990 from [REDACTED] of Huntington Park, California, who attested to the applicant's residence at [REDACTED] Huntington Park, California since January 1987.
- Five money order receipts dated March 6, 1981, October 29, 1981, November 19, 1981, April 29, 1983, April 29, 1986, and April 22, 1988, which listed the applicant's address as [REDACTED] Huntington Park, California.
- Three money order receipts dated in April and May 1987.
- A California identification card ID issued on February 28, 1985.
- Several PS Form 3806, receipts for registered mail postmarked February 19, 1987, April 17, 1987 and April 2, 1987.
- An affidavit notarized May 12, 1989 from [REDACTED] of E&M Machine Co. in Sante Fe Springs, California, who indicated that the applicant has been in his employ as a machine operator since May 1981
- An earnings statement from L.A. Blow Molding Co., for the period March 16, 1987 to March 22, 1987.
- Printouts dated June 11, 2001 from the Internal Revenue Service in El Monte, California regarding the applicant's delinquent tax liability for the years ending for 1983, 1984, 1986 and 1987.
- A document dated June 11, 2001 from the Internal Revenue Service indicating that the applicant had filed a tax return in 1983 and 1984.

- A letter dated June 11, 2001 from [REDACTED], principal of The South Whittier School District who attested to the attendances of two of the applicant's sons from September 10, 1985 to September 18, 1986 and from September 10, 1985 to November 1985. [REDACTED] listed the applicant's residence at [REDACTED] Whittier, California during this time period.
- The applicant's eldest son's immunization records reflecting vaccinations given on September 5, 1985, November 22, 1985 and June 3, 1986.
- An affidavit notarized August 1, 2001 from [REDACTED] who indicated he rented property to the applicant at [REDACTED], Altadena, California from May 1981 to 1982.

The applicant also submitted several postmarked envelopes. However, as the postmarks are indecipherable, it cannot be ascertained when they were mailed and, therefore, the envelopes have little probative value or evidentiary weight.

The director issued a Notice of Intent to Deny dated May 3, 2004, informing the applicant that the submitted evidence did not establish his continuous unlawful residence in the United States since before January 1, 1982 through 1985. In addition, the applicant was informed that there were inconsistencies between his application and documentation. Specifically, the money order receipts issued on April 29, 1983 and April 29, 1986 contained sequential numbers, and the address indicated on the money order receipts issued in 1981 and 1983 contradicted the applicant's claim on his Form I-687 application as he listed two different addresses during this time period. The applicant was also informed that the affidavits from the affiants did not meet the guidelines set forth in 8 C.F.R. § 245a.2(d)(3).

The applicant, in response, did not address the inconsistencies regarding the money order receipts. He submitted photocopies of documents previously provided along with the following:

- His eldest daughter's immunization record reflecting vaccinations given on November 15, 1983 and May 28, 1985 in Mexico.
- A notarized affidavit from [REDACTED] of Whittier, California, who attested to the applicant's residence at [REDACTED] Whittier, California from December 1984 to 1986 and in Huntington Park since 1986. [REDACTED] indicated that he was a neighbor of the applicant during the time he resided in Whittier.
- A notarized affidavit from [REDACTED] of Pasadena, California, who indicated that he has known the applicant since 1981. [REDACTED] asserted that the applicant resided with him at 2136 [REDACTED], Altadena, California from May 1981 to May 1982. [REDACTED] attested to the applicant's other residences in Whittier from May 1982 to 1984 and in Huntington Park from 1984 to October 1990.
- A notarized affidavit from [REDACTED] of Norwalk, California, who indicated that the applicant was his co-tenant at [REDACTED], Whittier, California from June 1982 to November 1984.

The vaccinations given to the applicant's second son and eldest daughter in 1983 and 1985 were given in Mexico and, therefore, cannot serve as evidence of the applicant's residence in the United States during those years.

The record contains no evidence to suggest that the director attempted to contact [REDACTED] to verify the authenticity of the employment document submitted. [REDACTED] and [REDACTED] their affidavits, attest to the applicant's residence at [REDACTED] from 1982 and 1986; however, the applicant's California ID card listed his address as [REDACTED] in 1985. Likewise, [REDACTED] in his affidavit, attested to the applicant's residence at [REDACTED] since January 1987; however, the applicant claimed on his Form I-687 application residence at [REDACTED] since 1986. As the addresses are in such close proximity to each other that it does not raise significant issue to the legitimacy of the applicant's residences during the periods in question. The issue regarding the money order receipts purportedly issued in 1981 and 1983 has not been addressed by the applicant, and, therefore, said receipts have no probative value or evidentiary weight in these proceedings.

The applicant provided affidavits from individuals, all whom provide their addresses and/or telephone numbers and indicate a willingness to testify in this matter. The district director has not established that the information in these affidavits was inconsistent with the claims made on the application, or that such information was false. The fact that the affidavits do not provide specific information as specified in 8 C.F.R. § 245a.2(d)(3) does not mean such documents are to be disregarded, rather such documents must be considered in conjunction with the other supporting evidence, as well as the testimony of the applicant himself.

The applicant submitted evidence, including contemporaneous documents, which tends to corroborate his claim of residence in the United States during the requisite period. As stated in *Matter of E--M--*, *supra*, when something is to be established by a preponderance of evidence, the applicant only has to establish that the proof is probably true. That decision also points out that, under the preponderance of evidence standard, an application may be granted even though some doubt remains regarding the evidence. The documents that have been furnished may be accorded substantial evidentiary weight and are sufficient to meet the applicant's burden of proof of residence in the United States for the requisite period.

The documentation provided by the applicant supports by a preponderance of the evidence that the applicant satisfies the statutory and regulatory criteria of entry into the United States before January 1, 1982, as well as continuous unlawful residence in the country during the ensuing time frame of January 1, 1982 through May 4, 1988, as required for eligibility for legalization under section 1104(c)(2)(B)(i) of the LIFE Act.

Accordingly, the applicant's appeal will be sustained. The district director shall continue the adjudication of the application for permanent resident status.

ORDER: The appeal is sustained.