



U.S. Citizenship
and Immigration
Services

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FILE:

MSC 02 178 60190

Office: LOS ANGELES

Date: MAY 19 2006

IN RE:

Applicant:



APPLICATION:

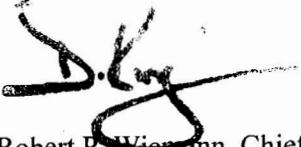
Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), amended by Life Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000).

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. 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 he had continuously resided in the United States in an unlawful status since before January 1, 1982 through May 4, 1988.

On appeal, the applicant stated that he was submitting evidence to prove his continuous residency in the United States since 1981. The applicant submitted copies of previously submitted documentation.

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).

The applicant stated on his I-687, Application for Status as a Temporary Resident, that he first unlawfully entered the United States on March 30, 1981 when he crossed the border of California without inspection. The applicant further stated that, since that time, he has only been out of the United States once, from June to July 1987, to visit his family.

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

1. An October 30, 1993 sworn statement by [REDACTED], who stated that he knew that the applicant had been living in the United States since 1981. However, [REDACTED] provided no other specifics about his relationship with, or knowledge of, the applicant. The affidavit is too vague to provide credible, probative evidence of the applicant's continuous presence and residency in the United States during the qualifying period.
2. An undated and unsworn statement from [REDACTED] who stated that the applicant has been his friend for the past 22 years, and has done "a lot of work" at the affiant's home in Palmdale.
3. An October 29, 1993 sworn affidavit from [REDACTED] who stated that the applicant is a friend of the family and had lived in their guesthouse since 1981. [REDACTED] also signed a joint statement with his wife, dated June 21, 1993, stating that they had known the applicant since March 1981. The statement did not indicate that the applicant resided on property owned by the [REDACTED]
4. Copies of rent receipts for the rental period March to April of the qualifying years, including 1981. The interviewing officer at the applicant's LIFE Act adjustment interview noted that he viewed the originals of these receipts and questioned their authenticity, as they did not appear to be aged. The applicant stated that he had lived at one residence, [REDACTED] in Sylmar, California, during the full qualifying period. [REDACTED] signed all of the receipts.
5. A statement from [REDACTED] who stated that he has known the applicant since 1981, and that the applicant has performed many jobs for him when needed.
6. An October 30, 1993 sworn affidavit from [REDACTED] who stated that he knew that the applicant had been living in the United States since 1981. [REDACTED] provided no other specifics about his relationship with, or knowledge of, the applicant. The affidavit is too vague to provide credible, probative evidence of the applicant's continuous presence and residency in the United States during the qualifying period.
7. An October 30, 1993 sworn affidavit from [REDACTED] who stated that he knew that the applicant had been living in the United States since 1981. [REDACTED] provided no other specifics about his relationship with, or knowledge of, the applicant. The affidavit is too vague to provide credible, probative evidence of the applicant's continuous presence and residency in the United States during the qualifying period.
8. An October 30, 1993 sworn affidavit from [REDACTED] who stated that the applicant has lived in Los Angeles, California since 1981, and that he worked "with some contractors friends" since that time.

In his LIFE Act adjustment interview, the applicant confirmed that he had left the United States only once during the qualifying period, and that was for a twenty-day period in 1987. The applicant executed a sworn affidavit stating that his wife had never been in the United States.

In a Notice of Intent to Deny (NOID), the director noted that although the applicant stated that he had been out of the United States only once in 1987, and that his wife had never visited the United States, he indicated

on his Form I-485, Application to Register permanent Resident or Adjust Status, that he had a son that was born in Mexico in January 1984.

In response to the director's NOID, the applicant stated that the rental receipts were in good condition because he kept them in an envelope inside of a box. The applicant further stated that he was nervous during his interview and did not read or understand English. The applicant stated that he misspoke when he stated that his wife had never visited the United States, and that she indeed had been in the United States in 1983 and again in 1985.

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 applicant has submitted no objective evidence to support his assertions regarding the rental receipts or his wife's presence in the United States in 1983. We note that the applicant was accompanied to his interview by [REDACTED] who served as his interpreter.

We also note that the applicant stated on his Form I-687, signed on November 2, 1993, that he had worked for [REDACTED] as a "helper" since 1981. However, [REDACTED] did not indicate in his affidavit that he had ever employed the applicant in any capacity. *Id.*

As discussed above, the adjudication of the applicant's claim is a measure of both the quantity and quality of the evidence submitted. *See* 8 C.F.R. § 245a.12(e). Other than the rental receipts, which are of questionable authenticity, the applicant submitted no contemporaneous evidence to support his claim.

Given the absence of any competent contemporaneous documentation, and the contradictory and unsupported statements by the applicant, it is concluded that he has failed to establish continuous residence in the U.S. for the required period.

The applicant has, therefore, failed to establish that he resided in continuous unlawful status in the United States from before January 1, 1982 through May 4, 1988, as required under section 1104(c)(2)(B) of the LIFE Act. Given this, he 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.