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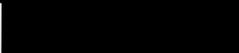
U.S. Citizenship
and Immigration
Services

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FILE:



Office: LOS ANGELES

Date: **MAY 25 2006**

MSC 01 360 60631

IN RE:

Applicant:



APPLICATION:

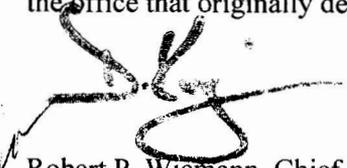
Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), amended by Life Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000).

ON BEHALF OF APPLICANT:



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 lived in the United States since June 1976, and that her sister and brother-in-law have supported her, as she is physically handicapped and depends on a wheelchair for mobility. The applicant submitted 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. A July 23, 2001 joint statement from [redacted] and [redacted] in which they stated that the applicant has lived with them and that they have supported her since June of 1976. Mrs. [redacted] also [redacted]

submitted a sworn statement dated July 10, 2004, confirming that her sister has lived with her since June 1976.

2. Copies of income tax returns for the applicant's sister and brother-in-law. The returns reflect that they claimed the applicant as a dependent on their tax returns. On appeal, the applicant submitted copies of the [REDACTED] tax returns from 1976 through 2003. The returns reflect that they claimed the applicant as a dependent in each of these years. The applicant did not submit copies of these returns certified as having been filed with the Internal Revenue Service.
3. A bank passbook that lists the accountholders as the applicant and her sister. The passbook indicates that it was issued in November 1987; however, entries reflect that the account was established as early as June 1984. On appeal, the applicant submitted a July 9, 2004 letter from the [REDACTED] [REDACTED] from Washington Mutual, the bank issuing the passbook. Ms. [REDACTED] stated that the account was opened on February 24, 1977, and that the "account title" is [REDACTED]. The letter does not indicate the effective date of the account title, and it appears that the applicant may have been added to the account after it was established. 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. Doubt cast on any aspect of the applicant's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa application. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988).
4. A July 10, 2004 sworn affidavit from [REDACTED], who stated that the applicant is his sister-in-law and that she has lived in the United States since June 1976.
5. A July 10, 2004 sworn statement from [REDACTED] who stated that the applicant is her friend and that she has lived in the United States since June 1976.
6. An August 4, 1989 sworn affidavit from [REDACTED] in which she stated that she met the applicant in 1981, and has personal knowledge that the applicant has lived in Huntington Park, California since 1980. Ms. [REDACTED] did not indicate that source of her knowledge regarding the applicant's residency in the United States prior to 1981, and provided no specifics to date her relationship with the applicant.
7. An August 9, 1989 sworn statement from Ofelia Calleros, who stated that she met the applicant in 1981 and knows that she lived in Huntington Park, California since 1980. The district office identified Ms. [REDACTED] as the applicant's niece.
8. A July 10, 2004 sworn affidavit from [REDACTED], who stated that the applicant is a friend and neighbor and has lived in the United States since June 1976.
9. A July 15, 2001 statement from [REDACTED] pastor of the [REDACTED] who stated that "according to the testimony of several witnesses," the applicant "has attended regularly our Sunday mass since 1982." Reverend [REDACTED] provided no first-hand knowledge of the applicant's attendance at church services and provided no evidence that was supported by church records.

We note that on her Form I-687, Application for Status as a Temporary Resident, signed on August 14, 1989, the applicant stated in block 16, that she first arrived in the United States in 1976. In blocks 25 and 26, she

indicates that she had been issued a B-2, nonimmigrant visitor's visa, in 1981, and that she had never violated her legal status. The applicant, however, did not indicate, and the record does not reflect, that she entered the United States pursuant to that visa. During her LIFE Act adjustment interview, the applicant executed a sworn statement, in which she stated that she first entered the United States in 1982. Further, although the applicant and the affiants who submitted sworn affidavits on her behalf, stated that she first entered the United States in June 1976, the 1987 income tax return of her sister and brother-in-law indicates that she was in the United States for the full year of 1976. These inconsistencies bring into issue the credibility of these affidavits and the income tax returns purporting to show that the applicant was present in the United States prior to 1982. *See Matter of Ho*, 19 I&N Dec. at 591.

Given the conflicting documentation, it is concluded that the applicant has failed to establish continuous residence in the U.S. for the required period.

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