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U.S. Citizenship
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FILE:



Office: LOS ANGELES

Date: MAR 12 2007

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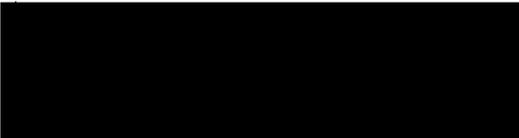
Applicant:



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 (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, counsel argues that the director failed to make any credibility findings on the documentation submitted in response to the Notice of Intent to Deny. Counsel asserts that the applicant has submitted sufficient documentation establishing continuous residence in the United States from prior to January 1, 1982 through May 4, 1988.

It is noted that the director, in denying the application, did not address the evidence furnished in response to the Notice of Intent to Deny, and did not set forth the specific reasons for the denial pursuant to 8 C.F.R. § 103.3(a)(1)(i). As such, the documentation submitted throughout the application process will be considered on 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 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).

At the time the applicant filed her LIFE application, she presented no evidence to establish continuous unlawful residence since before January 1, 1982 through May 4, 1988. Accordingly, on May 13, 2003, the director issued a Form I-72 requesting that the applicant provide proof of her continuous presence in the United States from 1981 to 1988. The applicant, in response, only submitted:

- A letter dated July 18, 2003 from [REDACTED] of Northridge, California, who indicated that she met the applicant on December 31, 1982 in Los Angeles, California. Ms. [REDACTED] asserted that she has been acquainted with the applicant since that time.
- An affidavit notarized May 24, 2003 from [REDACTED] of Sun Valley, California, who indicated attested to the applicant's 1981 entry into the United States and asserted, "[i]t has been very difficult for her to maintain records with her name to prove continuously residence here, or economically used her name in any transaction. For this reason she may encounter difficult to prove continuous residence." The affiant asserted that the applicant has remained in contact with her since 1981.

The director issued a Notice of Intent to Deny dated June 21, 2004, advising the applicant that very little verifiable evidence had been submitted in an effort to establish her residence during the requisite period. The applicant was also advised that the affidavits provided had no corroborative evidence and little probative value. Counsel, in response, submitted a declaration from the applicant, indicating that she did not keep any receipts and except for the affidavits from her brothers and Ms. [REDACTED] she has not further evidence to submit. Counsel submitted:

- A notarized affidavit from [REDACTED] of North Hollywood, California, who attested to the applicant's presence in the United States in 1981 as the applicant attended a New Year's Eve celebration at her home in San Fernando. Ms. [REDACTED] asserted that she has been a childhood friend of the applicant.
- A photograph of the applicant and her brother taken in 1984 as claimed by counsel.
- A notarized affidavit from a brother, [REDACTED] of North Las Vegas, Nevada, who attested to the applicant's entry into the United States in December 1981. Mr. [REDACTED] asserted that the applicant and another brother "came together to lived with me. That I was living in 1981 at [REDACTED] in Van Nuys, CA."
- A notarized affidavit from a brother, [REDACTED] of Van Nuys, California, who indicated that he and the applicant came to the United States in December 1981. Mr. [REDACTED] asserted that he and the applicant resided with their brother, [REDACTED] from 1981 to 1990.

The photograph submitted has no identifying evidence that could be extracted which would serve to either prove or imply that it was taken in the United States during the requisite period.

The applicant's statement has been considered; however, the AAO does not view the affidavits discussed above as substantive enough to support a finding that the applicant entered and began residing in the United States before January 1, 1982. Ms. [REDACTED] Mrs. [REDACTED] and the applicant's brothers attested to the applicant's residence in the United States since 1981, but failed to provide the actual addresses the applicant resided during the period in question. Likewise, Ms. [REDACTED] attested to the applicant's presence in the United

States since December 1982, but failed to provide an address for the applicant during the period in question. The affiants provide no basis for their continuing awareness of the applicant's residence. In addition, [REDACTED] claims that the applicant resided from 1981 to 1990 with their brother, [REDACTED]. However, the affidavit from [REDACTED] failed to indicate the duration of the applicant's residence with him. The affidavits from the applicant's brothers must be viewed as having a self-evident interest in the outcome of proceedings, rather than as independent, objective and disinterested third parties. The applicant, throughout the application process, has not provided any employment documentation to corroborate her claim of employment listed on her Form I-687 application.

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 she 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.