

**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

U.S. Department of Homeland Security
20 Mass. Ave. N.W., Rm. A3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

Le

[REDACTED]

FILE: [REDACTED] MSC 02 245 61770

Office: LOS ANGELES

Date: **AUG 01 2008**

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:

[REDACTED]

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. If your appeal was sustained, or if the matter was remanded for further action, you will be contacted. If your appeal was dismissed, you no longer have a case pending before this office, and you are not entitled to file a motion to reopen or reconsider your case.

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 concluded that the applicant had not established that she resided in the United States in a continuous unlawful status from before January 1, 1982 through May 4, 1988, as required by section 1104(c)(2)(B) of the LIFE Act, and that the applicant would likely become a public charge under 8 C.F.R. 245a.18(c)(2)(vi) and therefore, denied the application.

On appeal, counsel asserts that the applicant had submitted sufficient proof that she entered the United States prior to January 1, 1982 and had resided continuously in the United States through May 4, 1988, and that the applicant is a single mother of three and will not become a public charge.

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:

1. Copies of five international postal envelopes, none with U.S. postal stamp, dated 1985, 1986, 1987 and 1988.
2. Notarized letter, dated May 17, 1990, signed by [REDACTED] asserting that the applicant lived at his address from 1981 to present, and occasionally attended his children for cash.
3. A typed, unsigned, undated letter, bearing the name [REDACTED] asserting that he has known the applicant since 1982 when the applicant's family worked at his ranch.

The applicant has provided virtually no evidence that she arrived and resided in continuous unlawful status in the United States from before January 1, 1982 through May 4, 1988, and the evidence which has been provided is not credible. As noted by the director, the envelopes provided do not bear a U.S. postal stamp, and it is not clear they were mailed to an address in the United States. The letter from [REDACTED] states that the applicant lived with him for nine years at an address which is different than the addresses provided by the applicant for that period, and is thus not credible. The letter bearing a typed name [REDACTED] has not been signed, is undated, does not provide specific details about when the applicant arrived, what her address was, and even states that the generic assertion made is not based on any documentary records. The letter at No. 3 above does not provide any significant support for the applicant's assertions.

The applicant claims to have been fourteen years old when she arrived, yet the birth date she listed on her applications and the birth date listed on her translated birth certificate are different.

Citizenship and Immigration Services (CIS) regulations provide an illustrative list of contemporaneous documents that an applicant may submit to establish presence during the required period. 8 C.F.R. § 245a.15(b)(1); *see also* 8 C.F.R. § 245a.2(d)(3)(vi)(L). Such evidence may include employment records, tax records, utility bills, school records, hospital or medical records, or attestations by churches, unions, or other organizations so long as certain information is included. The regulations also permit the submission of affidavits and any other relevant document, but applications submitted with unverifiable documentation may be denied. The totality of the evidence does not support that the applicant is eligible for adjustment of the LIFE Act program and the director's decision will be upheld.

The director noted that the applicant has a history of receiving public assistance, and denied the application based on the conclusion that the applicant was likely to become a public charge under 8 C.F.R. 245a.18(c)(2)(vi). The applicant indicated on her application that she had received public assistance and explained during her interview that she had received both welfare and food stamps.

On appeal counsel for the applicant asserts that the applicant's husband was murdered, that she is a single mother of three children, that she will not become a public charge, and that two I-134 Affidavits of Support have been submitted to establish this.

Examination of the record reveals that only one I-134 has been submitted. The individual submitting the I-134 is herself a mother of two dependent children and only makes 25,000 dollars a year, if that (the affiant submitted an uncertified tax return, thus her earnings cannot be verified). Counsel's other assertions are anecdotal, and actually support the director's conclusion that she will continue to remain a public charge. The applicant has not overcome the director's conclusion that she will become a public charge under 8 C.F.R. 245a.18(c)(2)(vi) and the decision will be affirmed.

The applicant has failed to establish that she 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, she 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.