



U.S. Citizenship
and Immigration
Services

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

PUBLIC COPY

L2

FILE: [REDACTED]
MSC 02 247 65845

Office: DALLAS

Date: **JAN 15 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:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has been returned to the National Benefits Center. 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, Dallas, Texas, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

On June 4, 2002, the applicant filed a Form I-485, Application to Register Permanent Resident or Adjust Status, under section 1104 of the LIFE Act. On November 12, 2003, the director denied the application due to the applicant's failure to satisfy the basic citizenship skills requirement. On appeal, the AAO affirmed the director's decision, but remanded for a determination of the applicant's eligibility for adjustment of status to that of a temporary resident pursuant to 8 C.F.R. § 245a.6.

On November 7, 2007, the director denied the application due to the applicant's failure to demonstrate eligibility for adjustment of status to that of a temporary resident pursuant to 8 C.F.R. § 245a.6. The director's decision is now before the AAO for certification and review.

An applicant for temporary 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 the date the application is filed. Section 245A(a)(2) of the Act, 8 U.S.C. § 1255a(a)(2). The applicant must also establish that he or she has been continuously physically present in the United States since November 6, 1986. Section 245A(a)(3) of the Act, 8 U.S.C. § 1255a(a)(3). The regulations clarify that the applicant must have been physically present in the United States from November 6, 1986 until the date of filing the application. 8 C.F.R. § 245a.2(b)(1).

The applicant has the burden of proving 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 under the provisions of section 245A of the Act, and is otherwise eligible for adjustment of status. 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.2(d)(5).

Although the regulation at 8 C.F.R. § 245a.2(d)(3) provides an illustrative list of contemporaneous documents that an applicant may submit in support of his or her claim of continuous residence in the United States in an unlawful status since prior to January 1, 1982, the submission of any other relevant document is permitted pursuant to 8 C.F.R. § 245a.2(d)(3)(vi)(L).

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.

The issue in this proceeding is whether the applicant has furnished sufficient credible evidence to demonstrate that she continuously resided in the United States in an unlawful status since January 1, 1982, through the duration of the requisite period. Here, the submitted evidence is not relevant, probative, and credible.

The record reflects the following evidence:

1. An August 2, 1990, affidavit by [REDACTED] who stated that she knew the applicant resided at [REDACTED] from October 1981 until August 1990. There is no contact number on the affidavit.
2. An August 2, 1990, affidavit by [REDACTED] who stated that she knew the applicant resided at [REDACTED] from October 1981 until August 1990. There is no contact number on the affidavit.
3. An August 2, 1990, affidavit by [REDACTED], who stated that he knew the applicant resided at [REDACTED] from October 1981 until August 1990. There is no contact number on the affidavit.
4. An August 2, 1990, affidavit by [REDACTED], who stated that the applicant worked as a housekeeper from June 1986 until August 1990. There is no contact number on the affidavit.
5. Two affidavits, dated August 3, 1990, by [REDACTED] and [REDACTED], who stated that they supported the applicant and she lived with them at their residence from October 19, 1981, until June 15, 1986. There is no contact number on the affidavit.
6. A May 9, 2003, affidavit by [REDACTED] who stated that she knew the applicant resided at [REDACTED] from June 1983 to November 1988, and [REDACTED] from November 1988 to August 1992. There is no contact number on the affidavit.
7. A May 12, 2003, affidavit by [REDACTED], who stated that she sold the applicant a washer and dryer on credit in 1984. The Service attempted to contact the affiant on August 23, 2007, but the phone was disconnected.

8. A May 29, 2002 affidavit by [REDACTED] who stated that she has personally known the applicant since January 1982 to the present. The affiant stated that they lived in San Diego, California and met again in Dallas in June 1992.

In a September 8, 2007, Notice of Intent to Deny, the director stated that the applicant furnished only affidavits as evidence in support of her application. The director noted that the submitted affidavits were not amendable to verification. The director granted the applicant thirty (30) days to submit additional evidence.

In response to the Notice of Intent, the record reflects that the applicant submitted four (4) updated affidavits with contact information by [REDACTED] and [REDACTED]. In a November 7, 2007, Notice of Decision, the director determined that the submitted documentation was insufficient to overcome the grounds for denial. The director stated that three of the four affiants could not be contacted at the phone numbers provided. The fourth affiant, [REDACTED] could not remember when she exactly met the applicant, whereas her affidavit was very specific in dates. For these reasons, the director determined that the applicant had not provided verifiable evidence of her continuous unlawful status since January 1, 1982.

The AAO finds that the applicant has failed to provide relevant, probative, and credible evidence. The applicant has not provided any verifiable, contemporaneous evidence of residence in the United States during the duration of the requisite period. Although not required, none of the affidavits included any supporting documentation of the affiant's identity or presence in the United States. None of the affiants indicated how they dated their acquaintance with the applicant or how frequently they saw the applicant. The absence of sufficiently detailed and consistent supporting documentation to corroborate the applicant's claim of continuous residence for the entire requisite period seriously detracts from the credibility of this claim. Pursuant to 8 C.F.R. § 245a.2(d)(5), the inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. Given the applicant's reliance upon documents with minimal probative value, it is concluded that she has failed to establish continuous residence in an unlawful status in the United States from prior to January 1, 1982, through the duration of the requisite period.

Therefore, based on the above, the applicant has failed to establish continuous residence in an unlawful status in the United States from prior to January 1, 1982 through the duration of the requisite period as required under both 8 C.F.R. § 245a.2(d)(5) and *Matter of E- M--*, *supra*. Accordingly, the applicant is ineligible for temporary resident status under section 245A of the Act.

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