



U.S. Citizenship
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FILE:

MSC 02 010 62387

Office: CALIFORNIA SERVICE CENTER

Date: JUL 16 2008

IN RE: Applicant:



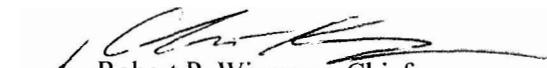
APPLICATION: Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), *amended by* LIFE Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000).

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits Center. 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. If your appeal was sustained or remanded for further action, you will be contacted.


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, California Service Center, 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 failed to demonstrate that he entered the United States before January 1, 1982, and resided in a continuous unlawful status since such date through May 4, 1988.

On appeal, the applicant maintains his claim of entry into the United States before January 1, 1982, and provides additional evidence.

Section 1104(c)(2)(B) of the LIFE Act states:

(i) In General – The alien must establish that the alien entered the United States before January 1, 1982, and that he or she has resided continuously in the United States in an unlawful status since such date and through May 4, 1988. In determining whether an alien maintained continuous unlawful residence in the United States for purposes of this subparagraph, the regulations prescribed by the Attorney General under section 245A(g) of the Immigration and Nationality Act (INA) that were most recently in effect before the date of the enactment of this Act shall apply.

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 or 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).

The issue in this proceeding is whether the applicant has furnished sufficient credible evidence to demonstrate that he entered the United States before January 1, 1982, and continuously resided in an unlawful status in the United States during the requisite period. Here, the applicant has failed to meet this burden.

In the Notice of Decision, dated October 5, 2006, the director determined that the applicant failed to submit sufficient evidence demonstrating his continuous unlawful residence in the United States during the requisite period. The director denied the instant application. On appeal, the applicant submits additional evidence in support of his claim.

Based on the record, the applicant asserts that he entered the United States in November 1981 on a B-2 visa. Several individuals submitted affidavits corroborating the applicant's presence in the United States from before January 1, 1982, through the duration of the statutory period. However, the affidavits contain several discrepancies regarding the applicant's employment, place of residence and associations during the requisite period.

Two individuals submitted affidavits indicating the applicant was employed by [REDACTED] from 1981 to 1986, and [REDACTED] during the statutory period. However, these affidavits are inconsistent with the applicant's own statements in his Form I-687, Application for Status as a Temporary Resident, dated September 30, 1991. In his Form I-687, at Question 36, the applicant listed his employment in the United States since his first entry. He stated that he was employed by [REDACTED] from December 1981 to July 1983 and [REDACTED] from August 1983 to May 1989. The applicant failed to mention ever working for [REDACTED] or [REDACTED]. This discrepancy casts doubt on the credibility of the applicant's claim.

Another declaration indicated that the applicant had been a member of the Progressive Church of Christian Service from December 1981 to October 1984. This declaration is inconsistent with the applicant's Form I-687. In his Form I-687, at Question 34, the applicant was asked to list affiliations or associations with clubs, organizations, churches, unions, businesses, etc. The applicant failed to list the above church. This discrepancy detracts from the credibility of the declarant.

Still other individuals submitted affidavits testifying to the applicant's place of residence during the statutory period. [REDACTED], the applicant's godmother, stated that he arrived in 1981 and resided at her house until June 1984. The affidavit is not amenable to verification because it fails to include contact information for the affiant. In addition, the affidavit is inconsistent with the applicant's Form I-687, in which he stated that he resided at [REDACTED] from Nov 1981 to August 1983. [REDACTED] stated that he has known the applicant since June 1984 and that the applicant resided with him from June 1984 to December 1989. This is also inconsistent with the applicant's Form I-687, in which the applicant stated that he resided at [REDACTED] from [REDACTED].

August 1983 to May 1989. Although both affiants failed to provide their places of residence for the stated time period, the dates are inconsistent. The discrepancies and the lack of details bring into question the credibility of the affiants.

Finally, the record contains two utility statements dated on May 20, 1986, and on October 16, 1987. One of the statements appears to have a date revised. This revision detracts from the credibility of the applicant's claim.

The record contains several inconsistencies which cast doubt on the credibility of the applicant's claim. 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 record contains no independent objective evidence to explain the above inconsistencies. A few errors or minor discrepancies are not reason to question the credibility of an alien or an employer seeking immigration benefits. *See, e.g., Spencer Enterprises Inc. v. U.S.*, 345 F.3d 683, 694 (9th Cir., 2003). However, the record includes numerous errors and discrepancies. These inconsistencies raise serious concerns about the veracity of the applicant's assertions.

Therefore, based on the above, the applicant has failed to establish entry into the United States prior to January 1, 1982, and continuous unlawful residence 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.