



U.S. Citizenship
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Services

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FILE:

[Redacted]
MSC 03 253 60285

Office: LOS ANGELES

Date: **SEP 19 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.

A handwritten signature in black ink, appearing to read "R. Wiemann".

for 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 (director) in Los Angeles, California. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The director denied the application on the ground that the applicant failed to establish that she entered the United States before January 1, 1982, and resided continuously in the United States in an unlawful status from before January 1, 1982 through May 4, 1988.

On appeal the applicant submits a personal statement and some additional documentation.

To be eligible for adjustment to permanent resident status under the LIFE Act applicants must establish their continuous unlawful residence in the United States from before January 1, 1982 through May 4, 1988, as well as their continuous physical presence in the United States from November 6, 1986 through May 4, 1988. See section 1104(c)(2)(B)(i) and (C)(i) of the LIFE Act, 8 U.S.C. § 245A(a)(2)(A) and (3)(A).

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 its amenability to verification. See 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).

The regulation at 8 C.F.R. § 245a.2(d)(3)(i) states that letters from employers attesting to an applicant's employment must: provide the applicant's address at the time of employment; identify the exact period of employment; show periods of layoff; state the applicant's duties; declare whether the information was taken from company records; and identify the location of such company records and state whether such records are accessible or in the alternative state the reason why such records are unavailable.

The applicant, who was born in Mexico on August 8, 1969 and claims to have come to the United States in 1981, filed her application for legal permanent resident status under the LIFE Act (Form I-485) on June 10, 2003. At that time the only evidence of the applicant's residence in the United States during the years 1981-1988 was a statement by [REDACTED] address unidentified, dated April 17, 2002, indicating that she had known the applicant since 1981 and that the applicant was a person of sound values and worthy activities. The applicant subsequently submitted two affidavits from her sister-in-law, [REDACTED] a resident of Palmdale, California, who claims to have known the applicant in the United States since 1981.

- In the first affidavit, dated December 2, 2006, [REDACTED] stated that she began living with the applicant's brother in September 1979 and has known the applicant since she first arrived in the United States in April 1981.

In the second affidavit, dated December 19, 2006, [REDACTED] listed the applicant's addresses in California during the 1980s as follows:

- (1) 1981 to 1983 – [REDACTED]
- (2) January 1983 to December 1983 – [REDACTED]
- (3) 1984 to 1988 – [REDACTED]
- (4) January 1988 to December 1993 – [REDACTED]

According to [REDACTED] the applicant lived with her and her husband, babysitting their young child, for all or most of the time from 1981 to 1988.

On January 9, 2007, the director issued a Notice of Intent to Deny (NOID), indicating that the evidence of record was insufficient to establish that the applicant entered the United States before January 1, 1982 and resided continuously in the country from then through May 4, 1988. The applicant was granted 30 days to submit additional evidence.

The applicant did not respond to the NOID. On February 12, 2007, therefore, the director denied the application for the reasons stated in the NOID.

On appeal the applicant reiterates her claim to have entered the United States in 1981. The applicant asserts that she worked as a babysitter and cleaner, was paid in cash, and has raised her family in the United States. A series of sworn statements was submitted with the appeal, consisting of the following:

A statement by [REDACTED] a resident of Sun Valley, California, dated January 12, 2007, that she has known the applicant since May 1982 and sometimes takes care of her children.

- A statement by [REDACTED] a resident of Sherman Oaks, California, dated January 11, 2007, that she has been friends with the applicant since she first arrived in the United States in 1981.
- A statement by [REDACTED] a resident of North Hollywood, California, dated January 11, 2007, that she knows the applicant has been in the United States since 1981 and has been paid in cash for her work.
- A statement by [REDACTED] a resident of North Hollywood, California, dated January 11, 2007, that he has known the applicant since July 1981 and that she has been a good mother to her four children, all born in the United States.

A statement by [REDACTED] a resident of North Hollywood, California, dated January 18, 2007, that she has been a friend of the applicant's since her arrival in the United States in 1981.

A statement by [REDACTED] a resident of Van Nuys, California, dated January 11, 2007, that she has known the applicant since March 1981 and worked with her cleaning houses from 1981 to 1984, receiving payment in cash.

- A statement by [REDACTED] a resident of North Hollywood, California, dated January 11, 2007, that the applicant began living with her sister in 1981 and that she met the applicant personally in July 1983.

The applicant also submitted a letter envelope addressed to her at the address in Northridge, California, identified by [REDACTED] as the applicant's residence from 1984 to 1988.

The issue in this proceeding is whether the applicant has furnished sufficient credible evidence to demonstrate that she resided continuously in the United States in an unlawful status from before January 1, 1982 through May 4, 1988. The AAO determines that she has not.

The evidence of the applicant's residence in the United States during the 1980s consists almost exclusively of the affidavits and sworn statements submitted at various stages of this proceeding. The only one that provides any substantial information about the applicant is the second affidavit by [REDACTED] which lists residential addresses during the 1980s and beyond. Aside from these addresses, however, [REDACTED] provides few details about the applicant's life in the United States during the 1980s. The same applies to all of the other statements in the record. The authors offer little or no information about how they first met the applicant, where she lived and where she worked during the 1980s, and the nature of their interaction with her during those years.

Furthermore, none of the authors submitted any evidence – such as photographs, letters, or other documentation – of their personal relationship with the applicant in the United States during the 1980s. In view of these substantive shortcomings, the AAO finds that the affidavits and sworn statements in the record have limited probative value. They are not persuasive evidence of the applicant’s continuous unlawful residence in the United States from before January 1, 1982 through May 4, 1988.

As for the envelope addressed to the applicant at [REDACTED] from an individual in Mexico, it bears a postmark that is virtually illegible – but may read May 6, 1987. That date corresponds to a time when the applicant, according to [REDACTED] affidavit, resided at that address (1984-1988). Even if the envelope is genuine, however, it would not establish that the applicant resided in the United States before 1987.

There is one other envelope in the record which is addressed to the applicant at [REDACTED] California. That address is not listed by [REDACTED] as a place the applicant lived at any time between 1981 and 2006, and it is not identified by the applicant anywhere else in the record. Moreover, the postmark on the envelope appears to read April 20, 1993, which is outside the applicable time period for LIFE legalization. Thus, the second envelope has no probative value in this proceeding.

Based on the foregoing analysis of the evidence, the AAO concludes that the applicant has failed to establish that she resided continuously in the United States in an unlawful status from before January 1, 1982 through May 4, 1988, as required under section 1104(c)(2)(B)(i) of the LIFE Act, 8 U.S.C. § 245A(a)(2)(A). Accordingly, the applicant is ineligible for permanent resident status under the LIFE Act.

The appeal will be dismissed, and the application denied.

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

[REDACTED]
JAE