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U.S. Department of Homeland Security  
U. S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
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U.S. Citizenship  
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FILE [REDACTED]  
MSC 03 245 65157

Office: SALT LAKE CITY

Date:

**OCT 13 2009**

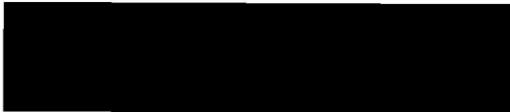
IN RE: Applicant:



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:



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.

Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the Director, Salt Lake City, Utah. The decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application because the applicant failed to demonstrate that she entered the United States before January 1, 1982, and resided in a continuous unlawful status through May 4, 1988.

On appeal, counsel for the applicant asserts that the applicant has submitted sufficient evidence in the form of affidavits and letters to establish the requisite continuous residence. Counsel submits additional evidence on appeal.

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 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.

In the Notice of Intent to Deny (NOID), dated November 19, 2007, the director stated that the applicant failed to submit sufficient evidence demonstrating her continuous unlawful residence in the United States from before January 1, 1982 through May 4, 1988. The director noted that the applicant had provided questionable documentation, and had testified during her interview that she had provided a fraudulent rent receipt. The director granted the applicant thirty (30) days to submit additional evidence.

In the Notice of Decision, dated January 16, 2008, the director denied the instant application based on the reasons stated in the NOID. The director stated that the birth certificate for the applicant's daughter establishes the applicant's presence in the United States in October 1982, but she had not submitted credible evidence to establish that she entered the United States prior to January 1, 1982 and resided continuously to October 1982.

It is noted that on appeal, counsel states that the applicant did not receive the NOID, and therefore, the applicant did not have an opportunity to address deficiencies raised in the NOID. On May 4, 2008, the AAO provided copies of the NOID to both counsel and the applicant. The record reflects that counsel subsequently submitted additional evidence in response to the NOID. Therefore, the record must be considered complete.

The issue in this proceeding is whether the applicant has furnished sufficient credible evidence to demonstrate her continuous residence in the United States in an unlawful status, and her physical presence, during the requisite period. In an attempt to establish continuous unlawful residence in the United States since prior to January 1, 1982, the applicant submitted various affidavits and letters as evidence to support her Form I-485 application. The AAO has reviewed the entire record. Here, the submitted evidence, as it pertains to the period prior to October 1982, is neither probative, nor credible.

The evidence provided which pertains to the period prior to October 1982, consists of the following:

Affidavits and letters

- 1) An affidavit from [REDACTED] and [REDACTED], attesting to having known the applicant to have resided at [REDACTED], from 1980 to 1981. The affiants also attest that the applicant lived at the same house that they rented, and that they “have always seen each other.” The affiants, however, do not provide details, such as to indicate how they date their acquaintance with the applicant, and whether and how frequently and under what circumstances they had contact with the applicant since their acquaintance began.
- 2) Affidavits from [REDACTED], and [REDACTED] Mr. [REDACTED] attests to having known the applicant to have resided in the United States since 1980, and that the applicant is his sister-in-law’s sister, and he has known her since she came to the United States. [REDACTED] attests to having known the applicant to have resided in the United States since November 7, 1981, and that he met the applicant when she was a tenant at Hotel California. The affiants, however, do not provide details, such as to indicate how they date their acquaintance with the applicant, and whether and how frequently and under what circumstances they had contact with the applicant since their acquaintance began.

The record contains a letter from [REDACTED], of the St. Thomas Aquinas Cathedral, located at 310 West Second Street, Reno, Nevada 89503, attesting to knowing that the applicant attended the Nativity Catholic Church in Torrance, California, “in the years 1980-1983.” Also, a letter from [REDACTED], of the Church of the Immaculate Conception, located at 1433 West Ninth Street, Los Angeles, California, states that the applicant had been “a parishioner in good standing” from January 1982 to January 1988. The regulation at 8 C.F.R. § 245a.2(d)(3)(v) provides requirements for attestations made on behalf of an applicant by churches, unions, or other organizations. Attestations must: (1) Identify applicant by name; (2) be signed by an official (whose title is shown); (3) show inclusive dates of membership; (4) state the address where applicant resided during membership period; (5) include the seal of the organization impressed on the letter or the letterhead of the organization, if the organization has letterhead stationery; (6) establish how the author knows the applicant; and (7) establish the origin of the information being attested to.

The letters from the St. Thomas Aquinas Cathedral, and the Church of the Immaculate Conception do not comply with the above cited regulations because they do not: state the address where the applicant resided during attendance ... (membership) ... period; establish in detail that the author knows the applicant and has personal knowledge of the applicant’s whereabouts during the requisite period; establish the origin of the information being attested to; and, that attendance (membership) records were referenced or otherwise specifically state the origin of the information being attested to. For this reason, the letters are not deemed probative and are of little evidentiary value.

Contrary to counsel’s assertion, the applicant has failed to submit sufficient evidence to establish her continuous residence for the period prior to October 1982. As noted above, the affidavits provided lack essential details. As such, the evidence provided is insufficient to establish the applicant’s continuous residence from prior to January 1, 1982 to October 1982.

In addition, the applicant has provided questionable documentation. As noted by the director, the applicant testified during her interview that she had provided a fraudulent rent receipt, purportedly issued on January 12, 1981. Also, the applicant provided a Western Union receipt that appears to have been altered to read "1-17-81" and, the address indicated on the receipt does not match any of the addresses listed by the applicant on her Form I-687 applications.

These discrepancies cast considerable doubt on the applicant's claim that she has resided continuously in the United States since prior to January 1, 1982. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). The applicant has failed to submit any objective evidence to explain or justify the discrepancies in the record. Therefore, the reliability of the remaining evidence offered by the applicant is suspect and it must be concluded that the applicant has failed to establish that she continuously resided in the United States in an unlawful status during the requisite period.

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 May 4, 1988.

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, 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