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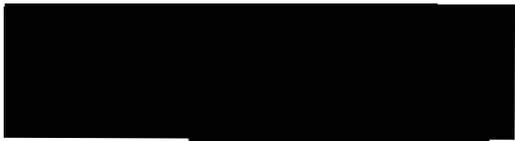
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MSC-02-066-61519

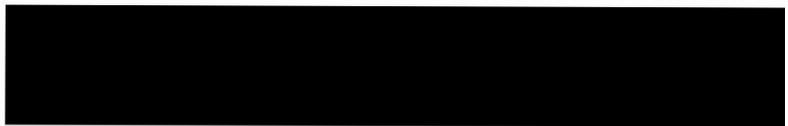
Office: FAIRFAX

Date: DEC 18 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:



**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.

John F. Grissom, Acting Chief  
Administrative Appeals Office

**DISCUSSION:** The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the Director, Fairfax, Virginia, 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 had failed to establish residence in the United States in an unlawful status from January 1, 1982 through May 4, 1988.

On appeal, the applicant reiterated her claim of continuous residence in the United States from prior to January 1, 1982 through May 4, 1988. The applicant asserts that Citizenship and Immigration Services (CIS) clearly abused its discretionary power by denying the applicant's case.

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. Section 1104(c)(2)(B) of the LIFE Act and 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 under the provisions of section 212(a) of the Act, 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).

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. 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 "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.

At issue in this proceeding is whether the applicant has submitted sufficient credible evidence to meet his or her burden of establishing continuous unlawful residence in the United States during the requisite period. Here, the applicant has failed to meet this burden.

Specifically, the applicant submitted the following documentation:

- Affidavits from [REDACTED] and [REDACTED]. Each of these affiants indicates that they met the applicant at some point between 1980 and 1986. The statements do not supply enough details to lend credibility to an at least 24-year relationship with the applicant. For instance, the affiants do not indicate how they date their initial meeting with the applicant, or how they had personal knowledge of the applicant’s presence in the United States. Further, the affiants do not provide information regarding where the applicant lived during the requisite period. Given these deficiencies, these affidavits have minimal probative value in supporting the applicant's claims that she entered the United States prior to January 1, 1982 and resided in the United States for the entire requisite period.
- A letter from Christian Prayer Church, signed by [REDACTED] and dated August 20, 1990. The declarant indicates that the applicant has been a member of the congregation since 1981. This letter does not conform to the statutory requirements for attestations by churches, unions, or other organizations, which is found at 8 C.F.R. § 245a.2 ((d)(3)(v)). That regulation requires such attestations to “show the inclusive dates of membership and state the address where the applicant resided during the membership period.” The declarant does not indicate where the applicant resided during the relevant period or any other information that is probative of the issue of her initial entrance to the United States prior to January 1981 or her continuous residence for the duration of the statutory period. Thus, it can be given little probative weight.
- A letter signed by [REDACTED] and dated September 25, 1990. The declarant indicates that the applicant worked as a babysitter for her next door neighbor from December 1986 until January 1988. She does not indicate how she dates her knowledge of the applicant’s employment, or any other relevant details. This letter will be given minimal weight.

- Similarly, the applicant submitted a letter from [REDACTED] dated August 14, 1990. [REDACTED] indicates that the applicant worked with him caring for an elderly man from September 1980 until November 1986. He provides no additional relevant details. The affiant does not indicate that he has direct personal knowledge that the applicant resided continuously in the United States during the relevant period. He does not indicate where the applicant resided during the relevant period, how he dates his acquaintance with the applicant, or how frequently he saw the applicant during the relevant period.
- Finally, the record contains envelopes addressed to the applicant, which contain date stamps which have been visibly marked. These will be given no evidentiary weight.

On appeal, the applicant has not submitted any additional evidence in support of his claim that she was physically present or had continuous residence in the United States during the entire requisite period or that she entered the United States in 1981.

Upon a *de novo* review of all of the evidence in the record, the AAO agrees with the director that the evidence submitted by the applicant has not established that she is eligible for the benefit sought.

Given the applicant's reliance upon documents with minimal probative 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 as required under section 1104(c)(2)(B) of the LIFE Act. The applicant is, therefore, ineligible for permanent resident status under section 1104 of the LIFE Act on this basis.

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