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U.S. Citizenship  
and Immigration  
Services

L2

[Redacted]

FILE: [Redacted]

Office: Portland

Date: **11 13 2004**

IN RE: Applicant: [Redacted]

PETITION: 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:

[Redacted]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. 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, Director  
Administrative Appeals Office

**DISCUSSION:** The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the Interim District Director, Portland, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The district director denied the application because the applicant had not demonstrated that she had continuously resided in the United States in an unlawful status since before January 1, 1982 through May 4, 1988.

On appeal, counsel asserts that the applicant has met her burden of proof of providing documentation establishing continuous residence in the U.S. from prior to January 1, 1982 through May 4, 1988.

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. 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 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).

When something is to be established by a preponderance of the evidence it is sufficient that the proof establish that it is probably true. *See Matter of E-- M--*, 20 I&N Dec. 77 (Comm. 1989).

Although CIS 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).

In an attempt to establish continuous unlawful residence since prior to January 1, 1982, the applicant submits the following:

- An affidavit from [REDACTED] who identifies herself as the applicant's cousin, attesting to the applicant having resided in Glendale, California, from 1981 to 1989;
- An affidavit from [REDACTED] attesting to the applicant having resided in Glendale, California, from 1981 to 1989;
- A photocopy of an envelope bearing a February 29, 1988 postmark which is addressed to the applicant at [REDACTED]

- A photocopy of a letter from [REDACTED] California, attesting to having known the applicant since 1981. The affiant bases his knowledge on the applicant's previously having attended Sunday services at his parish;
- A photocopy of an affidavit from [REDACTED] who attests to having known the applicant since June 1981. The applicant bases his knowledge on the applicant having lived with the affiant's sister in Glendale, California. The affiant also attests to the applicant having departed the U.S. for Mexico for approximately a month on May 15, 1987;
- A photocopy of an affidavit from [REDACTED] who identifies himself as the applicant's cousin. The affiant attests to the applicant having resided in Glendale, California, from June 1981 to November 1989; and
- An affidavit from [REDACTED] who identifies herself as the applicant's cousin. The affiant attests to the applicant having entered the U.S. in 1981, where she resided in Glendale, California until 1989; and
- Photocopied envelopes carrying postmark dates of June 25, 1986 and November 21, 1987, having been sent by the applicant at addresses in Los Angeles, California, and Pacoima, California, to [REDACTED] her mother, in Mexico.

As stated above, the inference to be drawn from the documentation provided shall depend on the *extent* of the documentation. The extremely minimal evidence furnished cannot be considered extensive, and in such cases a negative inference regarding the claim may be made as stated in 8 C.F.R. § 245a.2(12)(e).

The applicant has submitted a minimal amount of contemporaneous documentation to establish presence in the U.S. from the time she claimed to have commenced residing in the U.S. through May 4, 1988. In light of the fact that the applicant claims to have continuously resided in the U.S. since June 1981, this inability to produce contemporaneous documentation of residence raises serious questions regarding the credibility of the claim. Moreover, the contemporaneous documentation provided by the applicant contains numerous unresolved discrepancies. Specifically, the addresses listed on the postmarked envelopes contained in the record conflict with those indicated on the applicant's photocopied Form I-687 Application for Status as a Temporary Resident under Section 245A of the Immigration and Nationality Act, signed by the applicant on April 24, 1990. The photocopied envelope carrying the November 21, 1987 postmark date lists the applicant's return address as [REDACTED]. However, according to the applicant's I-687 application, she had resided [REDACTED] from June 1981 to November 1989, and at [REDACTED] since November 1989.

The applicant also provides a photocopy of an envelope carrying a February 29, 1988 postmark date, which is addressed to the applicant at [REDACTED]. This address is also at variance with that provided on the applicant's I-687 application, which indicated that, prior to November 1989, the applicant resided in Glendale, California. The applicant fails to resolve or account for these discrepancies, which diminishes the credibility of her claim and supporting documentation.

The affidavits submitted by the applicant do not adhere to the guidelines set forth in 8 C.F.R. § 245a.2(d)(3). The affidavits, nearly all of which are from relatives of the applicant, provide a bare minimum of information. Most are not verifiable as they are not accompanied by the affiants' phone numbers or addresses and, therefore, do not provide a means by which the affiants may be contacted. Nor do these affidavits include all the addresses where the applicant resided throughout the period in which the affiants have purportedly known the applicant or the dates of the applicant's continuous residence to which the affiants can personally attest. For example, the letter from [REDACTED] lists the applicant's residence as of July 9, 1993 -- the date of his letter -- but fails to provide the applicant's address since 1981, when the applicant purportedly first began attending religious services in that parish.

Given the minimal amount of contemporaneous documentation pertaining to this applicant, much of which provides conflicting and contradictory information, along with the applicant's reliance on affidavits which do not meet basic standards of probative value, it is concluded that she has failed to establish continuous residence in an unlawful status from prior to January 1, 1982 through May 4, 1988, as required.

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