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U.S. Department of Homeland Security
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Washington, DC 20529

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U.S. Citizenship
and Immigration
Services

[Redacted]

FILE:

[Redacted]

Office: Seattle

Date:

JUL 14 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.

[Handwritten signature]

Robert P. Wiemann, Director
Administrative Appeals Office

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prevent clearly unwarranted
invasion of personal privacy

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the District Director, Seattle, 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 for the applicant submits a separate statement in which he asserts that, in rendering his decision, the district director failed to take into consideration substantial evidence supporting the applicant's claim to 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] attesting to the applicant having visited him in Canada from June 27, 1987 to July 18, 1987 for the purpose of attending his cousin's marriage;
- An affidavit from [REDACTED] attesting to the applicant having resided with the affiant's family in San Jose, California, from May 1981 to July 1986, where she took care of the affiant's children. The affiant indicates the applicant was provided with food and shelter in return for her services to the affiant;
- An affidavit from [REDACTED] attesting to the applicant having resided in San Jose, California from July 1986 to July 1991. The affiant indicates he is a relative of the applicant;

- An I-705 Affidavit Confirming Seasonal Agricultural Employment of an Applicant for Temporary Residence Status Under Section 210 of the Immigration and Nationality Act, along with a corresponding separate employment statement, indicating the applicant performed seasonal agricultural employment for Beant Singh Samran at B & B Samran farm in Madera, California, from July 1986 to December 1990, for which she was paid in cash; and
- A barely-legible sales receipt from Toys'R'Us dated July 30, 1985.

As stated above, the inference to be drawn from the documentation provided shall depend on the *extent* of the documentation. In the present case, 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).

In *Matter of E-- M--*, *supra*, the applicant had established eligibility by submitting (1) the original copy of his Arrival-Departure Record (Form I-94), dated August 27, 1981; (2) his passport; (3) affidavits from third party individuals; and (4) an affidavit explaining why additional original documentation is unavailable. Unlike the alien in *Matter of E-M-*, the present applicant does not offer any explanation as to *why* she has been unable to provide additional evidence to support her claim.

As previously noted, 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). In this case, the applicant has submitted only *one* piece of contemporaneous documentation to establish her presence in the U.S. from May 1981 -- the time she claimed to have commenced residing in the U.S. -- through May 4, 1988. This documentation consists of a barely-legible generic store receipt dating from 1985 which contains no identification of the applicant as being the purchaser of the item pertaining to the receipt. In light of the fact that the applicant claims to have continuously resided in the U.S. since 1981, her inability to provide more than a negligible amount of contemporaneous documentation of residence of no evidentiary or probative value raises serious questions regarding the credibility of the claim.

The applicant has submitted only four affidavits, most of which fail to specify the basis of the affiants' knowledge or how they became acquainted with the applicant. Additionally, many of the affidavits 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 the addresses where the applicant resided throughout the period in which the affiants have known the applicant. The affidavit from [REDACTED] attests to the applicant having resided with the affiant's family in San Jose, California, from May 1981 to July 1986, but does not specify that address [the only address included is the affiant's *current* address in [REDACTED]]. The I-705 employment affidavit and corresponding statement from [REDACTED] do not specify the *exact* dates of employment and fail to indicate that the information included is taken from official company records or, if so, where those records may be accessed by Citizenship and Immigration Services (or CIS).

Given the negligible amount of contemporaneous documentation pertaining to this applicant, 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.