

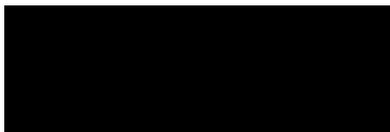
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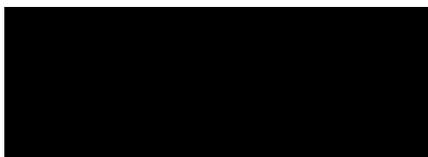
FILE: [REDACTED] Office: Los Angeles

Date: NOV 03 2005

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. 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 District Director, Los Angeles, California, 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 acknowledges that she has submitted a "sparse" amount of evidence to support her claim of continuous residence in this country from January 1, 1982 through May 4, 1988, but insists such evidence is credible.

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. See § 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 and is otherwise eligible for adjustment of status under this section. 8 C.F.R. § 245a.12(e). When something is to be established by a preponderance of evidence it is sufficient that the proof only establish that it is *probably* true. See *Matter of E-- M--*, 20 I. & N. Dec. 77 (Comm. 1989).

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 applicant is a class member in a legalization class-action lawsuit and as such, was permitted to previously file a Form I-687, Application for Temporary Resident Status Pursuant to Section 245A of the Immigration and Nationality Act (INA) on October 1, 1990. At part #33 of the Form I-687 application where applicants were asked to list all residences in the United States since the date of their first entry, the applicant listed 5851 Walnut Creek in Yorba Linda, California from January 1981 to January 1989 and [REDACTED] in Anaheim, California from January 1989 to October 1, 1990, the date the Form I-687 application was submitted. At part #34 of the Form I-687 application where applicants were asked to list all affiliations or associations with clubs, organizations, churches, unions, businesses, etc., the applicant indicated that she attended an unspecified Catholic Church in Anaheim, California beginning in January 1989. Further, at part #36 of the Form I-687 application where applicants were asked to list their employment in the United States since the date of their first entry, the applicant listed house cleaning as her only employment in the period from January 1981 to July 1989.

In support of her claim of continuous residence in the United States since prior to January 1, 1982, the applicant submitted two affidavits of residence signed by [REDACTED] and [REDACTED], respectively. While the applicant submitted two additional affidavits relating to her purported absence from this country in May 1987, the probative value of these affidavits must be considered as minimal because neither affidavit contains specific detailed information relating to the applicant's residence in the United States during the period from prior to January 1, 1982 to May 4, 1988.

The applicant also submitted an employment letter signed by [REDACTED], who stated that she had employed the applicant as a babysitter from January 1981 to 1988. However, as noted above, the applicant listed house cleaning as her only employment in the period from January 1981 to July 1989 at part #36 of the Form I-687 application. The applicant failed to provide any explanation as to why she did not list her employment as a babysitter for [REDACTED] on the Form I-687 application.

The applicant subsequently submitted a Form I-589, Request for Asylum, to the Immigration and Naturalization Service or the Service (now Citizenship and Immigration Services or CIS) on July 23, 1993. At part #12 of the Form I-589 asylum application where applicants were asked to list the date of their arrival in the United States, the applicant specified that she arrived in this country on January 1, 1989. Additionally, on the Form G-325A, Report of Biographic, that was included with the Form I-589 asylum application, the applicant listed her residences in the United States for the five-year period prior to the filing of the asylum application on July 23, 1993. However, the applicant failed to list the address in Yorba Linda, California that she had specified she resided from January 1981 to January 1989 on her Form I-687 application, despite the fact that she lived at this address within the five-year period. Rather, the applicant indicated that her residence in the United States began in January 1989 at an address in Anaheim, California. The applicant failed to put forth any explanation as to why she did not list the address in [REDACTED] California as a residence on the Form G-325A when she listed her addresses of residence in the prior five-year period.

Subsequently, on October 22, 2001, the applicant submitted her Form I-485 LIFE Act application. With her LIFE Act application, the applicant included copies of previously submitted documents as well as a new affidavit of residence signed by [REDACTED]. In her affidavit, Ms. [REDACTED] stated that the applicant "...had lived with me, renting a room, at [REDACTED] in the city of Anaheim, State of California [REDACTED] with a monthly rent of \$75.00, from September 10, 1981 to December 31, 1988." However, Ms. [REDACTED] testimony regarding the applicant's residence in this period is directly contradicted by the fact that applicant claimed that she resided at [REDACTED] in [REDACTED] California from January 1981 to January 1989 at part #33 of the Form I-687 application. Neither the applicant nor Ms. [REDACTED] offered any explanation in an attempt to resolve the conflicting information relating to her place of residence during the requisite period.

On May 24, 2004, the district director issued a notice of intent to deny to the applicant informing her of CIS' intent to deny her LIFE Act application because she failed to submit sufficient evidence of continuous unlawful residence in the United States for the period in question. The applicant was granted thirty days to respond to the notice and provide additional evidence in support of her claim of residence this country for the period in question.

In response, the applicant submitted tax documents and an affidavit of residence and membership from Father [REDACTED] of St. Boniface Church in Anaheim, California relating to [REDACTED] and a receipt for a guaranty of payment from [REDACTED] to [REDACTED]. However, these documents contain no information pertaining to the applicant's claim of residence in the United States from prior to January 1, 1982 through May 4, 1988 and, therefore cannot be considered as probative evidence in these proceedings.

The applicant also submitted a letter signed by [REDACTED] receptionist at St. Boniface Church in Anaheim, California, who stated that the applicant had been attending Sunday services at this church since 1981. As noted above, the applicant indicated that she attended an unspecified Catholic Church in Anaheim, California beginning in January 1989 at part #34 of the Form I-687 application where applicants were asked to list all affiliations or associations with clubs, organizations, churches, unions, businesses, etc. The applicant failed to put forth any explanation as to why she had failed to list her affiliation with St. Boniface Church at part #34 of the Form I-687 application if in fact she had attended this church since 1981 as claimed by Ms. Martinez in her letter. In addition, the applicant failed to provide any explanation as to why she had not previously submitted evidence relating to her affiliation with St. Boniface Church with either the Form I-687 application or the Form I-485 LIFE Act application if she had been attending this church since 1981.

In addition, the applicant submitted a photocopy of an envelope addressed to her at [REDACTED] in Anaheim, California, that contains a postmark for September 15, 1988. However, the applicant failed to provide any explanation as to how she could receive mail at an address in September 1988, when she claimed she did not begin residing at this address until January 1989 on both the Form I-687 application and the Form G-325A biographic report that was included with the Form I-589 asylum application.

The district director determined that the applicant had failed to establish her claim of residence for the requisite period and denied the application on November 28, 2003.

On appeal, the applicant acknowledges that she has submitted a "sparse" amount of evidence to support her claim of continuous residence in this country from January 1, 1982 through May 4, 1988, but insists such evidence is credible. The applicant's argument cannot be considered as persuasive however, in light of the contradictions and conflicts contained in her own testimony as well as the testimony within documentation submitted in support of her claim of residence in this country. 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, in fact, lies, will not suffice. *Matter of Ho*, 19 I. & N. Dec. 582 (BIA 1988).

The complete lack of contemporaneous documentation pertaining to this applicant and the discrepancies, conflicts, and contradictions both in her own testimony and her supporting evidence seriously impair the credibility of her claim of residence in the United States for the requisite period. The applicant has failed to establish having resided in continuous 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. Accordingly, the applicant is ineligible for adjustment to permanent resident status under section 1104 of the LIFE Act.

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