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**U.S. Citizenship  
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Services**

**L2**

**PUBLIC COPY**

[REDACTED]

FILE: [REDACTED]  
MSC 02 122 60711

Office: LOS ANGELES

Date: JUL 18

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:

SELF-REPRESENTED

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. Any further inquiry must be made to that office.

  
Robert P. Wiemann, Chief  
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 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, the applicant asserts that her oral testimony “standing alone, was straightforward, detailed, consistent and plausible,” and that she submitted supporting affidavits and declarations to establish that she resided in the United States since October 1981.

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(2)(c)(B) of the LIFE Act; 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).

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.

Although Citizenship and Immigration Services (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).

The applicant states that she first entered the United States in October 1981 without inspection at San Ysidro, California, and worked as a part-time domestic helper for her relatives until April 1988.

In an attempt to establish continuous unlawful residence since before January 1, 1982 through May 4, 1988, the applicant submitted the following evidence:

1. A July 1, 1990 notarized statement from [REDACTED] the applicant's sister-in-law, in which she stated that the applicant worked for her as a housekeeper and babysitter from October 1981 to April 1988. Mrs. [REDACTED] stated that the applicant received free room and board as compensation.
2. An envelope reflecting a cancelled Filipino postmark date of September 4, 1981, and addressed to the applicant in California.
3. An enveloped reflecting a cancelled Filipino postmark date of February 2, 1982, and addressed to the applicant in California.

The applicant also submitted a December 20, 1989 sworn affidavit from [REDACTED], who stated she was introduced to the applicant by a friend in 1981; a December 30, 1989 sworn statement from [REDACTED] who stated that he grew up with the applicant in the Philippines and that he has first hand knowledge of the applicant's residency in the United States since 1981; and the applicant's November 21, 1989 notarized statement in which she stated that she had been self-employed "doing various odd jobs and receiving "CASH" payment" for her labor. These documents were all notarized by [REDACTED]. However, following a large-scale fraud investigation centered in Las Vegas, Phoenix and Los Angeles, [REDACTED] on November 9, 1993, was convicted in the United States District Court in Nevada, of conspiracy to file false statements with the Immigration and Naturalization Services. Mr. [REDACTED] admitted that he assisted in filing applications that contained false and fraudulent affidavits, employment letters, postmarked envelopes, and other documents.

On November 1, 1996, the applicant was issued a Notice of Intent to Revoke her class membership as a result of the investigation and Mr. [REDACTED] admissions. The applicant was advised that she had 30 days in which to submit evidence as to why her class membership should not be revoked. The applicant failed to respond, and subsequently on January 14, 1997, her class membership was revoked.

This brings into question the applicant's credibility and that of other evidence submitted in support of the application. Doubt cast on any aspect of the applicant's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa application. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988).

On appeal, the applicant alleges that she "should not be expected to keep the documents, besides, most were burned on 01-03-02 where I resided at that time." Nonetheless, the applicant did not submit any of this alleged evidence prior to January 2002. Further, in an August 19, 2004 sworn statement, the applicant alleged that the fire occurred in 1999 while she resided at [REDACTED] in Rowland Heights, California. However, the documentation submitted by the applicant indicated that a fire occurred at this address in 2002. The applicant alleged on her Form I-687, Application for Status as a Temporary Resident, that she last lived at that address in 1988. According to the applicant's G-325A, Biographic Information, which she signed on September 22, 2003, she lived at [REDACTED] in Rowland Heights in 2002. In a September 17, 2003 sworn statement, [REDACTED] certified that legal documents stored in his home by the applicant for safety purposes were destroyed in the fire that took place in January 2002. However, Mr. [REDACTED] statement is insufficient to establish the truth of the matters relating to any documentation stored by the applicant. *See id.* The applicant's statements regarding the fire further diminish her credibility.

The applicant states that her oral testimony was credible, and that pursuant to *Garrovillas v. INS*, 156 F.3d 1010 (9<sup>th</sup> Cir. 1988), absent a “showing of an explicit adverse credibility findings means that the alien’s testimony is accepted as true.” As discussed above, however, the applicant submitted suspect statements in support of her application for class membership and gave conflicting statements regarding the destruction of evidence. Accordingly, she had not established her credibility on the issues involved with her LIFE Act claim. The applicant also asserts that, pursuant to *Woodby v. INS*, 385 U.S. 276 (1986), the standard of proof is clear and convincing evidence. In *Woodby*, the Supreme Court addressed the issue of degree of proof in deportation proceedings when Congress had failed to set a particular standard. However, the regulation at 8 C.F.R. § 245a.12(e) specifically provides that the applicant must establish by a preponderance of the evidence that she is entitled to adjustment under the LIFE Act.

Given the minimum contemporaneous documentation, the unresolved inconsistencies in the record, and the questionable documentation submitted by the applicant, it is concluded that she has failed to establish by a preponderance of the evidence, her continuous residence in the U.S. for the required period. Accordingly, the applicant is ineligible for permanent residence under section 1104 of the LIFE Act.

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