

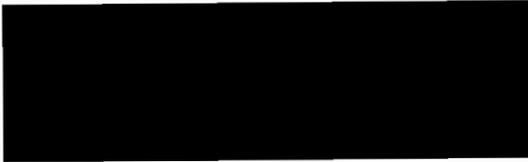
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**U.S. Citizenship
and Immigration
Services**

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FILE: [REDACTED]
MSC 01 276 60032

Office: LOS ANGELES

Date: JUN 22 2006

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 concluded that the applicant's documentation submitted was at variance with the information initially provided on her Form I-687 application, thereby casting credibility issues on her claim to have continuously resided in the United States in an unlawful status from before January 1, 1982 through May 4, 1988. As such, the director denied the application.

On appeal, the applicant asserts that she has submitted sufficient documentation establishing continuous residence in the United States from prior to January 1, 1982 through May 4, 1988. The applicant states that she is unable to submit any additional evidence as she received her wages in cash and generated no bills in her name.

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).

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 applicant 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 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.

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. *See* 8 C.F.R. § 245a.2(d)(3)(vi)(L).

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

- A letter from [REDACTED] of Santa Ana, California, who indicated that the applicant resided in her home from 1981 to 1987, and was employed as a babysitter and housekeeper from 1983 to 1987.
- An additional affidavit notarized June 23, 2001 from [REDACTED] attesting to the applicant's residence at her home at [REDACTED], Santa Ana, California, and as a babysitter and housekeeper from December 1981 to December 1987. [REDACTED] asserted that she has remained in contact with the applicant since that time.
- An affidavit notarized July 28, 1990 from [REDACTED] of Santa Ana, California, who indicated that the applicant was in her employ as a babysitter from January 1981 through 1983, and again from 1988 to May 1989. [REDACTED] asserted that the applicant received her wages in cash.
- A letter dated July 6, 1990 from [REDACTED] human resources supervisor at United Western Medical Centers, who indicated that the applicant was employed as a laundry aide from April 14, 1986 to January 8, 1987 as a part-time employee.

On September 20, 2004, the director issued a Notice of Intent to Deny, advised the applicant that: 1) the documentation submitted did not establish entry prior to January 1, 1982 and continuous residence since that date through May 4, 1988; 2) the affidavits submitted did not contain sufficient information and corroborative documents and, thus, lacked weight in evidence; and 3) the record contain documentation that was internally inconsistent, namely the applicant presented two Forms for Determination of Class Membership; one indicated that the applicant first entered the United States in 1988 and the other indicated she first entered in 1981. Also, on her Form I-687 application, the applicant indicated employment with [REDACTED] from 1983 to 1987; however, [REDACTED] in her subsequent affidavit attested to employment from 1981 to 1987, and in her initial letter, indicated the applicant resided at her home, but provided no address for verification purposes.

The applicant, in response, asserted that it was impossible for her to obtain documentation that occurred 22 years ago. The applicant stated:

In regards to the information on the form I-687 regarding my job with [REDACTED] with she was the person that I live since I can to USA in 1981 and because she give the opportunity to live there I start to help with her two children and on 1983 she start to pay me for babysitter. On those affidavits of witness [REDACTED] states too that any can contact her for additional information regarding my person but no intent to contact her was take by any officer who is checking my life application.

The initial letter from [REDACTED] was submitted along with other documents dated in 1990 at the time the applicant attempted to file her Form I-687 application. The subsequent affidavit was submitted with the applicant's LIFE application in 2001, and the affiant did provide the address to which the applicant resided during the period in question. As the applicant was residing in the affiant's home, the discrepancy regarding the dates of employment can be deemed to be minor and not prejudicial to the applicant's claim. Furthermore, the record contains no evidence to suggest that the director attempted to contact [REDACTED] to verify the authenticity of the applicant's employment.

Although the applicant did not specifically address the director's findings regarding the different dates of her entry on each Form for Determination of Class Membership, in response, the applicant asserted that she entered the United States prior to January 1, 1982, and that all supporting documents support this claim. It is incumbent upon the petitioner 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, 591-92 (BIA 1988).

However, there is a significant period of time that has not been accounted for, namely January 1, 1988 through May 4, 1988. The affidavit from [REDACTED] lacks probative value as the affiant failed to indicate the specific dates of the applicant's employment during 1988 or the applicant's address at the time of this employment. The applicant claims to have resided at [REDACTED] Santa Ana since January 1988, but provided no evidence, such as a lease agreement, rent receipts, utility bills or affidavits from affiants to corroborate this residence.

In light of the fact that the applicant claims to have resided in the United States from January 1, 1988 through May 4, 1988, this inability to produce supporting affidavits as well as contemporaneous documentation of residence raises questions regarding the credibility of the claim. The applicant has, therefore, failed to establish that she resided in *continuous* unlawful status in the United States from before January 1, 1982 through May 4, 1988, as required under section 1104(c)(2)(B) of the LIFE Act. Therefore, the applicant is ineligible for permanent resident status under section 1104 of the LIFE Act.

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