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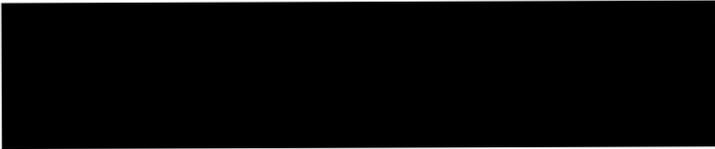
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FILE: [REDACTED] Office: LOS ANGELES Date: JAN 25 2007  
MSC 02 142 62384

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. Any further inquiry must be made to that office.

A handwritten signature in ink, appearing to read "Robert P. Wiemann".

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, reopened, and denied again by said Director. The matter 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 from before January 1, 1982 through May 4, 1988.

On appeal, the applicant asserts that the director's decision was "wrongfully made based on Asylum Application on which I was misled by a notary public who help me with the asylum application & I signed the asylum application without knowing what is contained as far as information about myself."

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).

The record reflects that on February 7, 1994, the applicant filed a Form I-589, Request for Asylum in the United States. At item 12 on the form, the applicant listed her arrival date in the United States as October 25, 1993. Along with her Form I-589, the applicant submitted a Form G-325A, Biographic Information dated February 2, 1994. The applicant indicated on the Form G-325A that she resided in her native Guatemala from

August 1953 to October 1993. The form requests that the applicant list her residence(s) for the last five years; however, the applicant listed only one residence in the United States beginning in October 1993.

On appeal, the applicant, asserts in part:

I would like to stated that I was mislead on the filing of my Asylum Application on February 8, 1994 the person who helped with the filing made up the whole story which I did not even know and even used her address as my mailing address on my application. I never knew she was specifying on my Asylum Application that I had lived in the country of Guatemala in the 1990's. I have always lived in the United States of America since 1980 to the present.

The applicant's claim that someone "helped with the filing" of her Form I-589 lacks credibility as the form does not reflect that anyone other than the applicant completed the application. No information is listed in the section of the form that requests the name, address and signature of the person preparing the form.

However, a review of the contemporaneous documentation mentioned below supports the applicant's claim that she was in the United State prior to 1993.

Nevertheless, the record does not support a finding of continuous residence in the United States since before January 1, 1982 through June 12, 1985. In an attempt to establish continuous unlawful residence since before January 1, 1982 through May 4, 1988, the applicant provided the following evidence:

- Two postmarked envelopes postmarked in August and September 1985 and addressed to the applicant at [REDACTED].

An envelope postmarked in 1986 and addressed to the applicant at [REDACTED].

A social security earnings printout from the Social Security Administration, which reflected the applicant's earning since 1990.

- An affidavit from [REDACTED] of Lake Arrowhead, California, who indicated that she has personally known the applicant since February 1982 and attested to the applicant's character.
- A 1985 wage and tax statement from [REDACTED] in Gardena, California, which reflects the applicant's wages of \$1,726.08.

Two United States Postal Service money order receipts and two PS Form 3806, receipt for registered mail, dated November 29, 1985.

- A receipt dated August 30, 1985 from [REDACTED], in Los Angeles, California.
- Five United States Postal Service money order receipts issued in March, June, July and November 1986.

Several receipts dated November 19, 1986, December 19, 1986, January 26, 1 1987, March 23, 1987, June 5, 1987 and October 20, 1987 from [REDACTED] in Los Angeles, California.

- A receipt dated May 28, 1986 from [REDACTED] in Los Angeles, California.
- Several pay stubs from [REDACTED] dated January 7, 1986 through March 1, 1986.
- A 1987 wage and tax statement from [REDACTED] of Canyon Country, California, which reflects the applicant's wages of \$2,633.10.
- Several photocopied rent receipts issued in March through December 1980, January 5, 1981, August and December 1986 and in 1987.
- A California identification card issued on June 13, 1985.

Counsel, in response to the Notice of Intent to Deny, asserted that the personal earnings and benefit statement from the Social Security Administration reflected the applicant's reported earning since 1982. Counsel's assertion, however, is unfounded. The earnings statement clearly reflects the applicant's reported earning commenced in 1990.

The applicant asserts that she has resided continuously in the United States since 1980 and provided rent receipts dated in 1980 and January 5, 1981 to support her claim. The rent receipts, however, are not supported by a lease agreement or affidavits from individuals or family members attesting to this place of residence. [REDACTED] based her knowledge on having personally known the applicant since "February 1982"; however, the affiant neither included a United States address where the applicant resided throughout the period in question nor provided any detail regarding the nature or origin of her relationships with the applicant and the basis for her continuing awareness of the applicant's residence. No documentation from her husband has been provided in an effort to establish her residence and presence in the United States since their 1984 marriage which occurred in Guatemala. In addition, no credible evidence such as attestations from individuals, living in the Los Angeles area, lease agreements, or employment letters has been submitted to support her claimed residence prior to June 12, 1985.

Given the virtual absence of contemporaneous documentation, along with applicant's reliance on a single affidavit, it is concluded that she has failed to establish continuous residence in an unlawful status from prior to January 1, 1982 through June 12, 1985. Therefore, the applicant is ineligible for permanent resident status under section 1104 of the LIFE Act.

The applicant may be inadmissible under section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act) if she willfully misrepresenting a material fact in order to procure a benefit, namely asylum. However, such ground of inadmissibility may be waived pursuant to section 245A(d)(2) of the Act; 8.C.F.R. § 245a.18(c).

Given her failure to credibly establish continuous residence in the United States from before January 1, 1982 through May 4, 1988, the applicant is ineligible for permanent residence under section 1104 of the LIFE Act and, therefore, the issuance of an application for waiver of inadmissibility is moot.

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