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U.S. Citizenship
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Services

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FILE:

MSC 02 018 61159

Office: LOS ANGELES

Date:

JUN 18 2007

IN RE:

Applicant:

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.


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 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 states that errors in application were attributable to her attorney, and that she doesn't know where he got the information. The applicant states that she has resided in the United States since 1981. The applicant submits a letter in support of her appeal.

The applicant stated that she did not receive a copy of the director's Notice of Intent to Deny (NOID) dated March 23, 2005, and did not receive any communication from her "former" attorney regarding the NOID. The record reflects that the director's NOID was mailed to the applicant and her attorney at their addresses of record. The record does not indicate that the U.S. Postal Service returned either notification as undeliverable.

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(c)(2)(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 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 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 stated on a form to determine class membership, which she signed under penalty of perjury on April 12, 1990, that she first entered the United States on March 25, 1981, and that she left the United States for Mexico on October 20, 1981 to give birth to her child, [REDACTED], and again on August 14, 1987 because her mother was sick. The applicant stated that she was absent from the United States from October 20, 1981 to December 10, 1981, and from August 14 to August 28, 1987.

On her Form I-687, Application for Status as a Temporary Resident, which she also signed under penalty of perjury on April 12, 1990, the applicant reiterated her statements regarding the dates and purposes of her absences from the United States. The applicant also stated that she worked as a housekeeper for [REDACTED] from April 1981 through the date of the Form I-687 application. The applicant also stated that she maintained a single residence, [REDACTED] in Orange, California, during the qualifying period.

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

1. An April 12, 1990 notarized statement from [REDACTED] in which she verified that the applicant worked for her as a housekeeper beginning in April 1981. Ms. [REDACTED] did not indicate how she dated the applicant's employment or the applicant's address at the time of her employment. See 8 C.F.R. § 245a.2(d)(3)(i). The applicant submitted no other documentation to corroborate her employment with Ms. [REDACTED].
2. [REDACTED] of an "affidavit" from [REDACTED] in which she stated that the applicant lived with her at [REDACTED] in Orange from April 1981 until the "present."¹ The applicant submitted no corroborative documentation to establish that either she or Ms. [REDACTED] lived at the stated address during the qualifying period.
3. A copy of an "affidavit" from [REDACTED] in which he stated that he met the applicant at a family dinner. Mr. [REDACTED] stated that the applicant lived in Orange, California from May 1981 to the "present;" however, his statement is not dated. Further, although the document contains a notary stamp, the notary's signature appears on the top of the stamp, and she does not provide an attestation to any information provided.
4. A copy of an "affidavit" from [REDACTED] in which he stated that he met the applicant at a party, and that, to his personal knowledge, the applicant had resided in Orange, California from June 1981 to the "present." The attestation block reserved for the notary contains a date of April 11, 1990; however, as with the statement from Mr. [REDACTED], discussed above, the notary's signature (the same notary) appears on the top of the stamp and she does not provide an attestation to any information provided.
5. A copy of an "affidavit" from [REDACTED] in which she stated that she met the applicant at school, and that to her personal knowledge the applicant has lived in Orange, California since August 1981.

¹ This document from Ms. [REDACTED] while indicating that it was executed before a notary and contains a notary stamp, is not signed by the notary and does not indicate in which year it was executed.

6. A copy of an "affidavit" from _____ in which he stated that he met the applicant at a restaurant at which he worked, and that to his personal knowledge the applicant has lived in Orange, California since September 1981.
7. A copy of an October 8, 2001 sworn declaration from _____ in which she stated that to her personal knowledge, the applicant lived in Orange, California from 1981 to 1994. Ms. _____ stated that she was a good friend of the applicant; however, she did not state when and under what circumstances she met the applicant and did not otherwise state the basis of her knowledge of the applicant's residency in the United States.
8. A copy of an October 8, 2001 notarized declaration from _____ in which she stated that to her personal knowledge, the applicant lived in Orange, California from 1981 to 1994. Ms. _____ stated that she has been friends with the applicant since the applicant lived in Orange; however, she did not state when and under what circumstances she met the applicant and did not otherwise state the basis of her knowledge of the applicant's residency in the United States.
9. A March 4, 2004 sworn declaration from _____ in which she stated that she met the applicant in 1981 when they cleaned houses, and that the applicant lived in Orange, California from 1981 to 1994.
10. A March 5, 2003 sworn declaration from _____, in which she stated that the applicant lived in Orange, California from 1981 to 1994, and in Corona, California from 1995 to the "present." Ms. _____ stated that she and the applicant were "co-workers, here in Corona CA." The declarant did not state the basis of her knowledge regarding the applicant's residence in Orange, and was unclear as to whether she met the applicant prior to the applicant becoming a resident of Corona, California in 1995.
11. A copy of an August 16, 1988 letter from the _____ in which its pastor, Reverend _____ stated that the applicant had been a member of the parish in February 1983, and from May 1988 continuing until the date of the letter. The letter indicated that the applicant resided at _____ in San Juan Capistrano during her membership in February 1983 and at _____ in San Juan Capistrano during her membership in 1988. This information is inconsistent with the information provided by the applicant on her Form I-687 application, in which she stated that she had been a member of _____ Church in Orange from April 1981 until the date of her April 1990 Form I-687 application. Additionally, the applicant admitted to living at a single address, _____ in Orange, California, from April 1981 until the date of her Form I-687 application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the applicant submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

All of the "affidavits" submitted by the applicant indicate that they were, or were to be, notarized by the same notary. However, as noted, the document from Ms. _____ is not signed or dated by the notary. Additionally, while all of the other statements contain a notary stamp, the notary's signature appears on the top of the stamp, and she does not provide an attestation to any information provided.

According to the interviewer's notes taken during the course of her LIFE Act adjustment interview, the applicant stated that she worked as a housekeeper for _____ from 1981 until the date of her interview. On

her Form G-325A, Biographic Information, that she submitted in connection with her LIFE Act application and which she signed under penalty of perjury on October 11, 2001, the applicant stated that she had no employer but worked as a housekeeper at various addresses from March 1981 to January 2001. This information is contradictory to the information provided on the applicant's Form I-687 and the statement from Ms. [REDACTED] indicating that the applicant worked as a housekeeper for Ms. [REDACTED] from April 1981 until the date of the I-687 application in April 1990. The applicant submitted no documentation to explain this discrepancy. *Id.* The applicant also submitted an August 18, 1988 statement from [REDACTED], in which she stated that the applicant had babysat for her. It is unclear whether the handwritten statement added to the statement regarding the length of employment refers to the applicant.

On appeal, the applicant stated that the attorney erred in placing her daughter's birth in 1981 instead of 1979, and that after her initial entry in 1981, she did not leave the United States again until 1987, when she returned to Mexico because her mother was ill. The applicant submitted copies of her children's birth certificates and statements from witnesses indicating that her children were born prior to 1982 and remained in Mexico with the applicant's mother. Although the applicant stated that she did not know the source of the information that the attorney used on the Form I-687 application, she did not deny that she signed the document attesting to its accuracy. However, whether the birth of the applicant's daughter occurred in 1979 or 1981, and whether she returned to Mexico to give birth in 1981 would not affect the applicant's eligibility for benefits under the LIFE Act as the event occurred prior to 1982.

Nonetheless, the applicant has not provided credible and verifiable evidence that she arrived in the United States prior to January 1, 1982 and remained in an unlawful status through May 4, 1988. The applicant submitted no contemporaneous documentation of her residency in the United States. Additionally, her statement on her Form I-687 application and the statement submitted by Ms. [REDACTED] concerning the applicant's employment from 1981 are contradicted by the applicant's statement during her LIFE Act interview and her statement on the Form G-325A. The applicant submitted no documentation to corroborate any employment during the qualifying period. Further, the letter from the [REDACTED] regarding the applicant's membership in the parish is inconsistent with the applicant's statement on her Form I-687 application regarding her church membership and her residences during the requisite period.

Given the absence of any contemporaneous documentation and the unresolved inconsistencies in the record, it is concluded that the applicant has failed to establish continuous residence in the U.S. for the required period.

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