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MAR 13 2007

FILE: [REDACTED] Office: LOS ANGELES Date:  
MSC 01 311 60043

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.

A handwritten signature in black 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, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The district director concluded that the applicant's testimony 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 provides copies of previously submitted documents in support of the appeal.

It is noted that the director, in denying the application, did not address the evidence furnished in response to the Notice of Intent to Deny, and did not set forth the specific reasons for the denial pursuant to 8 C.F.R. § 103.3(a)(1)(i). As such, the documentation submitted throughout the application process will be considered on appeal.

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).

Here, the submitted evidence is not relevant, probative, and credible. In an attempt to establish continuous unlawful residence since before January 1, 1982 through May 4, 1988, the applicant provided the following evidence:

- An affidavit notarized June 16, 2001 from [REDACTED] of Northridge, California, who indicated that he first met the applicant through her husband in May 1986 and attested to her moral character. [REDACTED] asserted that he and the applicant have been good friends since that time.
- An affidavit notarized June 14, 2001 from [REDACTED] of Northridge, California, who indicated that he first met the applicant through her husband in May 1986 and attested to her moral character. [REDACTED] asserted that he and the applicant have been good friends since that time.
- An affidavit notarized June 13, 2001 from [REDACTED] of Northridge, California, who indicated that he first met the applicant in 1984 when he moved into the neighborhood where they both currently reside, and attested to her moral character. [REDACTED] asserted that he and the applicant have been good friends since that time.
- An affidavit notarized June 12, 2001 from [REDACTED] of Northridge, California, who indicated that he first met the applicant in 1983 when he moved into the neighborhood where they both currently reside, and attested to her moral character. [REDACTED] asserted that he and the applicant have been good friends since that time.
- An affidavit notarized June 11, 2001 from [REDACTED] of Northridge, California, who indicated that he first met the applicant in 1982 at an apartment complex where he and the applicant resided at the time and attested to her moral character.
- A letter dated April 23, 1996 from [REDACTED], community outreach program coordinator for San Fernando Valley Child Guidance Clinic in Northridge, California, who indicated that she has known the applicant and her family since they have lived in this community.

The director issued a Notice of Intent to Deny dated November 3, 2004, advising the applicant that were inconsistencies between her application, documentation, and oral testimony. Specifically, at the time of her initial interview on May 6, 1996, the applicant stated that she first entered the United States in August 1988. However, during her LIFE interview on March 3, 2003, the applicant stated that she came to the United States in 1982. The applicant was also advised that she had not submitted any documentation to establish an entry into the United States prior to January 1, 1982. The applicant, in response, asserted that at the time of her interview she was very nervous and gave incorrect information regarding her initial entry into the United States. The applicant asserted that she arrived in the United States in June 1981. The applicant submitted:

- Letters dated January 23, 2002 from [REDACTED] of San Fernando, California and [REDACTED] of Pacoima, California, who indicated that they have known the applicant since June 1981. The affiants attested to the applicant's current address. [REDACTED] asserted that she is a very close friend of the applicant.
- A letter dated January 17, 2002 from [REDACTED] of San Fernando, California, who indicated that she has known the applicant since February 1981, and have remained good friends with the applicant since that time.

- A letter dated January 17, 2002 from [REDACTED] of Panorama City, California, who indicated that she has known the applicant since August 1981 and have maintained a good friendship since that time. The affiant attested to the applicant's current address.
- Affidavits notarized July 16, 1990 from [REDACTED] of Los Angeles, California, and [REDACTED] of San Fernando, California who attested to the applicant's residences in Tarzana from June 1981 to April 1985 and in Reseda from May 1985 to September 1989. The affiants asserted that they have been good friends with the applicant since 1981.
- A photocopied letter dated July 16, 1990 from [REDACTED] of Tarzana, California, who indicated that the applicant was employed as a housekeeper since June 1981. It is noted that the letter was notarized June 20, 1996.

The AAO does not view the affidavits discussed above as substantive enough to support a finding that the applicant entered and began residing in the United States before January 1, 1982 through May 4, 1988. Specifically:

1. [REDACTED] indicated that the applicant was employed as a housekeeper since June 1981. However, the applicant, on her Form I-687 application, indicated she had no employment during the requisite period. In addition, the letter raises questions of credibility as it was dated by the affiant on July 16, 1990, but was notarized six years later and the notary public's commission had expired on October 22, 1993.
2. [REDACTED] and [REDACTED] attested to the applicant's residence in Tarzana and Reseda during the requisite period. However, the applicant, on her Form I-687 application, did not claim residence in either location.
3. The remaining affiants did not include the address where the applicant resided throughout the period in which the affiants claimed to have known her.
4. In the affidavits from [REDACTED] and [REDACTED], there is no indication whatever as to the length of time the applicant has resided in the United States. The affiants all claimed "to have known" the applicant, but no attestations to the applicant actual residence in the United States were indicated.
5. The applicant claimed to have been nervous at the time of interview when she indicated that she first arrived in 1982. However, on her Form G-325A, Biographic Information, which was submitted with her LIFE application, the applicant listed her residence in the United States from February 1982.

Doubt cast on any aspect of an applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence. It is incumbent upon an 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).

Given the credibility issues arising from the documentation provided by the applicant, it is determined that the applicant has not met her burden of proof. The applicant has not established, by a preponderance of the evidence, that she entered the United States before January 1, 1982 and resided in this country in an unlawful status



continuously from before January 1, 1982 through May 4, 1988, as required under 1104(c)(2)(B)(i) of the LIFE Act and 8 C.F.R. § 245a.11(b). Given this, 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.