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

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FILE: 
MSC 02 243 69362

Office: LOS ANGELES

Date: **MAR 19 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: 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 from before January 1, 1982 through May 4, 1988.

On appeal, the applicant reiterates her claim to have entered the United States in February 1980 and to have submitted sufficient documentation establishing continuous residence in the United States from prior to January 1, 1982 through May 4, 1988. The applicant provides additional documents in support of the 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).

The applicant indicated on her Form I-687 application dated December 20, 1989 to have received public assistance from 1981 to 1982. However, at the time of her LIFE interview on November 5, 2004, when questioned whether she had received said assistance, the applicant replied no. According to the interviewing officer's notes, the applicant indicated that upon her arrival in the United States she resided with her spouse's sister on [REDACTED] in Compton, then moved to Gardena for approximately six months, then to [REDACTED] in Compton for one year and finally she resided on [REDACTED]. The applicant also indicated that she was

employed as a babysitter for over two years by [REDACTED] and [REDACTED]. She also was employed as a housekeeper for several individuals and received her wages in cash.

At the time the applicant filed her LIFE application, the applicant submitted no evidence to establish continuous unlawful residence since before January 1, 1982 through May 4, 1988. In addition, at the time of her LIFE interview, the applicant signed a sworn statement indicating that she first entered the United States in July 1982.

On November 8, 2004, the director issued a Notice of Intent to Deny advising the applicant of her statements made on November 5, 2004. The applicant was given 30 days in which to explain the discrepancies or to rebut any adverse information. The applicant, in response, asserted that she was very nervous at the time of her interview. The applicant asserted, "[t]he fact of the matter is that I entered the United States on February 1980, as the evidence and witness letter state. In reference to the welfare benefits I will try to obtain a letter from the welfare services to support my claim." The applicant requested that Citizenship and Immigration Services (CIS) take into consideration that more than 24 years have lapsed since she came to the United States, and all her friends have relocated in different cities or states making it difficult for her to obtain additional evidence. The applicant submitted a notarized affidavit from her sister-in-law, [REDACTED] of Hawthorne, California, who attested to the applicant's residence in the United States since February 1980.

On appeal, the applicant submits:

- A notarized affidavit from [REDACTED] pastor/president of Rios de Agua Viva Assemblies of God Church in South Gate, California, who indicated that he has known the applicant for many years, and that the applicant visited the church on several occasions.
- Notarized affidavits from [REDACTED] and [REDACTED] of South Gate, California, who attested to the applicant's Compton residences from February 1980 to 1986 at [REDACTED] and from 1986 to 1989 at [REDACTED]. The affiants asserted that they met the applicant in March 1980 at the time the applicant's husband visited their home to engage in mechanical work on their vehicles. The affiants asserted that they have remained close friends with the applicant since that time.
- A letter in the Spanish language from the Department of Public Social Services.

Any document containing foreign language submitted to CIS shall be accompanied by a full English language translation which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English. 8 C.F.R. 103.2(b)(3). As the letter from the Department of Public Social Services was not accompanied with the required English translation, it has no probative value or evidentiary weight.

The applicant claims to have been residing in the United States since 1980, nevertheless, she has only been able to provide CIS with two affidavits in support of her residence for the requisite period. [REDACTED] attested to the applicant's residence in the United States since February 1980, but provides no address for the applicant. The affidavit from the applicant's sister-in-law must be viewed as having a self-evident interest in the outcome of proceedings, rather than as independent, objective and a disinterested third party. Furthermore, the applicant's claim of residences indicated at the time of her LIFE interview contradicts [REDACTED]'s claims that the applicant resided at [REDACTED] from 1980 to 1986 and at [REDACTED] from 1986 to 1989. The applicant provides no evidence such as lease agreements, utility bills or rent receipts either in her or her

spouse's name to corroborate her and the affiants' claims to have resided in Compton during the requisite period. In addition, the applicant did not provide any contemporaneous evidence of having resided in the United States during the statutory period, nor did she provide any explanation as to why she was unable to provide such evidence. Her testimony regarding when she first entered the United States is inconsistent. The applicant did not otherwise establish that she resided continuously in the United States during the statutory period.

Therefore, it is found that the applicant has failed to establish continuous residence in an unlawful status from prior to January 1, 1982 through May 4, 1988, as required. Accordingly, 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.