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U.S. Citizenship  
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Services

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MAR 26 2007

FILE: [REDACTED]  
MSC 02 243 68742

Office: LOS ANGELES

Date:

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 (AAO) 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 inconsistencies between her Form I-687, Application for Status as a Temporary Resident, and her supporting statements are the result of errors caused by her memory and the person who completed her Form I-687 application. The applicant asks that the AAO give credence to the supporting statements.

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).

On a form to determine class membership, which the applicant signed under penalty of perjury on May 1, 1991, the applicant stated that she first entered the United States in December 1981. On her Form I-687 application, which she signed under penalty of perjury on April 24, 1991, the applicant stated that she lived at [REDACTED] in Costa Mesa, California from December 1981 to November 1983, [REDACTED] in Newport Beach, California from November 1983 to July 1987, and at [REDACTED] in [REDACTED]

Santa Ana, California from July 1987 to December 1988. The applicant also stated that she worked as a housekeeper for [REDACTED] at [REDACTED] in Newport Beach and [REDACTED] at [REDACTED] in Newport Beach from 1982 until the date of the Form I-687 application. The applicant stated that she worked for [REDACTED] as a housekeeper from March 1982 to July 1984.

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

1. A May 5, 1991 affidavit from [REDACTED] in which he stated that he had known the applicant since her arrival in the United States in December 1981. [REDACTED] did not state the basis of his knowledge of the applicant or her arrival in the United States. In her LIFE Act interview of November 5, 2004, the applicant stated that [REDACTED] was her husband's friend and employer.
2. A July 23, 2004 letter from [REDACTED], in which she stated that the applicant worked as her cleaning lady from 1981 "throughout the next several years." [REDACTED] stated that she lived on Balboa Island during the time, moved to Newport Beach and later to Costa Mesa. [REDACTED] stated that the applicant cleaned house for her mother and for "several assorted friends in the area." In her December 2, 2004 response to the director's Notice of Intent to Deny (NOID), the applicant stated that she worked as a live-in housekeeper Monday through Friday and rented a room elsewhere on the weekend. [REDACTED] did not indicate that the applicant lived with her as a housekeeper or babysitter. The applicant also did not state at any time that she worked for any individuals other than those she listed on 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).
3. A December 1, 2004 sworn declaration from [REDACTED] in which she stated that the applicant rented a room from her for one week in December 1981 while she was looking for work, and that once she found work in Newport Beach, she moved closer to her work.
4. A November 15, 2004 sworn statement from [REDACTED] in which she stated that the applicant did housekeeping for her every two weeks from January 1982 through December 1984. [REDACTED] did not indicate how she dated the applicant's employment with her. [REDACTED]'s statement also conflicts with that of the applicant's on her Form I-687 application, in which she stated that she worked for [REDACTED] through the date of her Form I-687 application. On appeal, the applicant states that [REDACTED]'s information is correct and that her Form I-687 is in error. The applicant submitted no corroborative or independent, objective documentary evidence of her employment with [REDACTED] at any time during the qualifying period. *Id.*
5. A November 17, 2004 sworn declaration from [REDACTED], in which he stated that the applicant rented a room from him from July 1987 through December 1988. [REDACTED] did not state the source of the information that he relied upon in determining the dates that the applicant rented from him. Further, the applicant submitted no evidence to corroborate that [REDACTED] owned the stated property that he allegedly rented to her during the time frame indicated.

The applicant also submitted three envelopes; however, the postmarks on the envelopes are illegible and are therefore not probative in establishing the applicant's presence and residency in the United States during the qualifying period.

In this instance, the applicant has submitted five affidavits and third-party statements attesting to her continuous residence in the U.S. during the period in question. Affidavits in certain cases can effectively meet the preponderance of evidence standard; however, in the instant case, the affidavits are inconsistent with the applicant's own statements. The applicant submitted no competent contemporaneous documentation to verify her presence in the United States during the requisite period. Given the minimum documentation provided by the applicant, the inconsistencies in this documentation and the lack of competent contemporaneous documentation, 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.