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FILE: [REDACTED]
MSC 02 243 61501

Office: LOS ANGELES

Date: SEP 07 2007

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 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 except for a brief departure she has been residing in the United States since 1978. The applicant claims she is having difficulty providing evidence of her residence as most of her records were destroyed during the Northridge earthquake. The applicant submits additional affidavits in support of her 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 only provided her youngest son's February 3, 1985 birth certificate and immunization record which reflected vaccinations given in 1986; her oldest son's United States passport reflecting his place and date of birth in California on

December 7, 1980; and a letter dated May 28, 2002 from [REDACTED] human resources assistant at [REDACTED] in Oxnard, California, who attested to the employment of "[REDACTED]" as a full-time production assembler "B" employee from May 29, 1979 through June 1, 1981 and from March 25, 1983 through March 29, 1984.

At the time of her LIFE interview, the applicant under oath, in a signed sworn statement, admitted, in part:

I entered the US in April, 1979. I entered through [REDACTED] with my mom who had a passport. After entry, we went to live in Ontario, California up to 1990. I went to work in [REDACTED] doing water heater assembly. I do not remember the name of the company but I only remember my supervisor's name [sic] who is [REDACTED]. I worked there from 1979 to April, 1980. I was 15 years old when I got married with [REDACTED] who was also illegal. My first child with him was born in Dec. 1980 in [REDACTED] Park. I left the US in December 1981 and went to Jalisco to have a baby [REDACTED]. I came back on the 28 of December, 1981. I did not file before because I did not have papers. But I left the country for two weeks.

In a Notice of Intent to Deny issued on June 3, 2004, the applicant was advised of inconsistencies between her oral testimony and the employment documentation submitted. Namely, in an attempt to verify her employment at [REDACTED] Citizenship and Immigration Services (CIS) had telephoned and spoke to Ms. [REDACTED]. [REDACTED] s reaffirmed the veracity of the employment letter, and stated the company only employs individuals 18 years or older and paid its employees by check. However, in her sworn statement, the applicant indicated that she was employed in [REDACTED] as a water heater assembler from 1979 to April 1980 and made no mention of employment with [REDACTED]. The applicant was also advised that she had not submitted any contemporaneous documents to establish her presence in the United States since her claimed entry through 1984.

The applicant, in response, asserted, in part:

During my interview, I declared that I had lived in Ontario from 1979 to 1980 approximately. I believe the interviewing officer may have written down 1990 by mistake because I never declared that year. I was off by one year by not by ten.

I resided in Ontario from 1978 to April 1979 and during this period I worked in Alta Loma, CA doing water heater assembly, namely from 6/78 to 1/79, to the best of my recollection.

I then lived in [REDACTED], CA from 4/79 to approximately 2/95. It was during this period that I worked at [REDACTED]. At the time that I applied for employment with them, I gave my age to be 18 years because I was aware of their requirement that all employees be over 18 years of age. This is why their records show my date of birth to be [REDACTED] during my employment between 5/79 to 6/81. I corrected my date of birth during my second period of employment with them. Their records reflect this correction as well.

The reason I did not mention my employment with [REDACTED] during my interview is because I only responded to the questions that were being asked and the interviewer never asked me about this period of time. My recollection is that when we came to that period in my interview, it was lunch time and the officer terminated my interview and did not ask me any further questions. I did not omit this information purposely at all, the interviewing officer told me we had finished

and I believe he did not ask about this employment since he had the letters of employment in front of him.

* * *

I have tried getting my children's immunization records but have been unable to and the original was lost during the 1994 Northridge earthquake. Most of my records were lost during this period. At the time of the earthquake I lived 2 blocks from the epicenter.

I am trying to get DMV records of my California ID and Driver's License but the print-out covers only the last 10 years. I have requested the microfilm of the 1981-1983 period but have been informed that it will take approximately 6 weeks before I get a response.

The applicant submitted:

- Notarized affidavits from [REDACTED] who indicated they have known the applicant since December 1981. The affiants asserted the applicant and her family resided in "our rental property" at [REDACTED] from December 1981 to January 1983. The affiants asserted they have remained friends with the applicant since that time.
- A statement dated June 15, 2004, from [REDACTED] who attested to the applicant's employment at [REDACTED] for four years commencing on November 12, 1979. The affiant indicated he was the applicant's supervisor.
- A letter dated June 15, 2004, from [REDACTED] human resources manager of [REDACTED] who attested to the employment of [REDACTED] with a date of birth of [REDACTED] from May 29, 1979 to June 1, 1981. [REDACTED] also attested to the employment of [REDACTED] with a date of birth of [REDACTED] from March 25, 1983 to March 29, 1984.

The director, in denying the application, noted that the applicant's statement and documents submitted did not overcome the adverse evidence outlined in the Notice of Intent to Deny.

On appeal, the applicant asserts:

I tried getting evidence from the DMV as to when my California ID was issued by they can only provided that if I give them my ID number , which I do not have. They were able to provide me with a record of when my Driver's License was issued because that number I was able to provide but I have a California ID several years before acquiring my Driver's License.

The applicant submits:

- A letter dated October 1, 2004, from the California Department of Motor Vehicles (DMV) regarding the applicant's inquiry of the original issue date of her California driver license. The letter indicates that due to its department's procedure to purge and destroy old applications, the DMV could not provide the applicant with the original date of issuance. The letter did note that number series beginning [REDACTED] and ending [REDACTED] for driver licenses was first issued on January 2, 1986. It is noted that the applicant's driver license number is [REDACTED]

- A notarized affidavit from [REDACTED] of [REDACTED] California, who attested to the applicant's residence in Ontario, California since April 1978. The affiant indicated, "I knew [the applicant] and her father when I lived in Ontario, and I knew [the applicant] thereafter."
- A notarized affidavit from [REDACTED] of Canoga Park, California, who attested to the applicant's residence in Canoga Park, California from December 1981 to April 2005. The affiant indicated he has been a friend of the applicant since December 1981.
- A notarized affidavit from [REDACTED] and [REDACTED] of Canoga Park, California, who attested to the applicant's residence in Canoga Park, California from December 1981 to April 2005. The affiants indicated they were neighbors of the applicant and her family and have become very close friends. [REDACTED] indicated that he was a confirmation sponsor for the applicant's son, [REDACTED].
- A notarized affidavit from [REDACTED] of Winnetka, California, who indicated the applicant was her babysitter from December 1981 to November 1982.

The statements of the applicant regarding the amount and sufficiency of the applicant's evidence of residence have been considered. However, the AAO does not view the documents 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 as the applicant has presented contradictory and inconsistent documents, which undermines her credibility. Specifically:

1. The applicant provides no school transcripts or baptismal record for her sons, [REDACTED], which would assist in corroborating her claimed residence during the requisite period. The applicant's claim that she has been unable to obtain her children's [REDACTED] immunization records is not plausible.
2. The employment letters from [REDACTED], raise questions to their credibility as the applicant has not submitted any evidence from [REDACTED], establishing that she, [REDACTED] and [REDACTED] are one and the same person.
3. The applicant asserted that she resided in Ontario, California from 1979 to 1980, and believed the interviewing officer may have written down 1990 by mistake because she never declared that year. However, the applicant, in affixing her signature on the sworn statement, certified that the information she provided was true and correct.
4. The residence affidavits from [REDACTED] and the employment letter from [REDACTED] have little evidentiary weight or probative value as the affiants failed to provide a telephone number or address and, therefore, the affidavits are not amenable to verification by CIS.
5. [REDACTED] indicated that the applicant was her babysitter from December 1981 to November 1982. The applicant, however, has never claimed employment as a babysitter.
6. [REDACTED] all attest to have known the applicant since 1981, but provide no actual address for the applicant during the period in question or any details regarding the nature or origin of their relationships with the applicant or the basis for their continuing awareness of the applicant's residence.
7. [REDACTED] attested to the applicant's residence in Ontario, California since April, 1978 through April 1, 2005. However, the applicant, in response to the Notice of Intent to Deny, indicated she resided in Ontario from 1978 to April 1979.

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.