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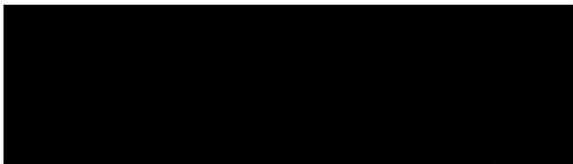
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U.S. Citizenship  
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Services

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FILE: [REDACTED]  
MSC 02 215 63416

Office: NEW YORK Date: DEC 02 2008

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:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has been returned to the National Benefits Center. If your appeal was sustained, or if the matter was remanded for further action, you will be contacted. If your appeal was dismissed, you no longer have a case pending before this office, and you are not entitled to file a motion to reopen or reconsider your case.

John F. Grissom, Acting Chief  
Administrative Appeals Office

**DISCUSSION:** The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the Director, New York, 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 since before January 1, 1982 through May 4, 1988. The director noted inconsistencies in the applicant's testimony and application.

On appeal the applicant asks that CIS reconsider her application.

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).

An applicant must establish eligibility by a preponderance of the evidence. 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 petitioner 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.

Citizenship and Immigration Services (CIS) regulations provide an illustrative list of contemporaneous documents that an applicant may submit to establish presence during the required period. 8 C.F.R. § 245a.15(b)(1); *see also* 8 C.F.R. § 245a.2(d)(3)(vi)(L). Such evidence may include employment records, tax records, utility bills, school records, hospital or medical records, or attestations by churches, unions, or other organizations so long as certain information

is included. The regulations also permit the submission of affidavits and any other relevant document, but applications submitted with unverifiable documentation may be denied. Documentation that does not cover the required period is not relevant to a determination of the alien's presence during the required period and will not be considered or accorded any evidentiary weight in these proceedings.

On August 10, 2007, the director sent the applicant a Notice of Intent to Deny (NOID), which stated that the evidence submitted by the applicant was insufficiently probative of continuous unlawful residence in the U.S. from prior to January 1, 1982 through May 4, 1988, and continuous physical presence in the U.S. from November 6, 1986 through May 4, 1988. The director noted that the evidence could not be verified and failed to overcome evidence in the record which contradicted the applicant's assertions.

The applicant submitted a written response and three additional affidavits accompanied by identification.

On September 22, 2007, the director denied the application because the applicant had failed to establish her continuous unlawful presence during the required period.

On appeal the applicant asks that CIS reconsider her application.

The applicant has submitted documentation for periods outside the required period which are not relevant to these proceedings.

Relevant to the period in question the record contains the following evidence:

- (1) A handwritten note signed by a [REDACTED] asserting the applicant has lived in Corona, New York for many years and has attended his church.
- (2) Document signed by [REDACTED] asserting the applicant worked in her house from January 1985 to June 1989.
- (3) Statement by [REDACTED] asserting the applicant worked in her house from January 1982 until November 1984.
- (4) Statement by [REDACTED] asserting the applicant rented a furnished room from her from July 1983 to November 1986. This address provided is not listed on the applicant's list of residences.
- (5) Statement by [REDACTED] asserting the applicant lived in her house from February 1981 until July 1983.
- (6) Statement by [REDACTED] asserting she met the applicant at a party in 1981.
- (7) Statement by [REDACTED] asserting she met the applicant at a store in July 1983.
- (8) Statement by [REDACTED] asserting she met the applicant at a party in 1984.
- (9) Statement by [REDACTED] asserting he met the applicant in 1981 at a party.
- (10) Statement by [REDACTED] asserting she met the applicant in December 1981.
- (11) Statement by [REDACTED] asserting he met the applicant at a friend's house in 1984.

- (12) Statement by [REDACTED] asserting he met the applicant at a dinner meeting in 1987.
- (13) Statement by [REDACTED] asserting that she met the applicant in 1982.

As stated above, the inference to be drawn from the documentation provided shall depend on the *extent* of the documentation. While the applicant has submitted numerous affidavits over the years, they are generic in their nature, lacking in detail, and insufficiently probative to lend any significant weight the applicant's assertions. The minimal evidence furnished cannot be considered extensive, and in such cases a negative inference regarding the claim may be made as stated in 8 C.F.R. § 245a.12(e).

The applicant has not submitted any primary evidence, and relies entirely on affidavits to establish eligibility for the required period. However, documents which generically assert an affiant has known an applicant since a particular year are not sufficiently probative to support assertions of eligibility. Casual acquaintance with an applicant such as meeting someone at a party, seeing them in church, or seeing them on the street corner or a store, is not sufficient to demonstrate that such affiant has actual direct knowledge of an applicant's continuous, unlawful residence for the duration of the required period. Such casual knowledge of an applicant lacks the context to be sufficiently probative of the applicant's assertions. In this case the bulk of the affidavits submitted are fill-in-the-blank affidavit forms with minimal information. Even in a light most favorable to the applicant the body of statements submitted are not sufficiently probative to carry the applicant's burden, much less clarify the lack of detail in the record and inconsistencies noted by the director.

The general lack of detail concerning the applicant's entries into the United States, as well as her whereabouts and activities during the required period, reflects poorly on her assertions of continuous unlawful residence and presence and give rise to a negative presumption of eligibility. The applicant listed that she had two children born in Colombia during the 1980's, but the dates on her I-687 have clearly been altered. As they read now she had a child born in Colombia in 1983 and 1987, but only listed one exit and entry – about which she could provide no details, corroborating evidence or other information – in 1987. She subsequently asserted during an interview in 1993 that she traveled back to Colombia to have her child in 1983, and returned 8 days later. However, she claimed she could not remember where she entered, how she traveled, or what exact date she returned. She failed to submit any details, corroborating evidence or information regarding this assertion. In addition, the I-687 she filed in 1992 stated that her husband was not in the United States, and was residing in Colombia. The applicant has failed to clarify the birthdates of her children, or provide birth certificates to explain the inconsistencies.

The applicant's assertion that she traveled to Colombia in 1987 for the birth of another child appear implausible as well. She initially claimed that she returned to Colombia for a family emergency, and only subsequently attributed the exit and re-entry to the birth of her child. The applicant has failed to provide any details, corroborating evidence such as proof of entry into Mexico, or any other information which might lend credence to her assertions. In fact, CIS records indicate that the applicant appears to have entered the United States for the first time in

1989. A copy of her passport contained in the record reveals that her initial passport was issued in Colombia in 1987.

Doubt cast on any aspect of the petitioner's proof may undermine the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988). It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Id.*

The applicant has alleged a minimal body of facts in an attempt to satisfy the criteria for legalization, leaving CIS with no context in which to verify or corroborate her assertions. Without the context in which to view the applicant's assertions they appear isolated factually, do not present an overall picture of the applicant's residence and presence, are not corroborated by other assertions contained in the record, and are not amenable to verification. When the facts asserted in the record are viewed in their totality with the evidence presented, including the conflicting testimony, contradicting evidence, and implausible factual allegations, the statements submitted on behalf of the applicant do not appear credible and are not sufficiently probative to establish the applicant's burden.

Given the lack of credible supporting documentation and the inconsistencies noted in the record, it is concluded that the applicant has failed to establish by a preponderance of the evidence that she entered the United States before January 1, 1982 and maintained continuous, unlawful residence from such date through May 4, 1988, as required for eligibility for adjustment to permanent resident status under section 1104(c)(2)(B)(i) of the LIFE Act. The applicant is, therefore, 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.