



U.S. Citizenship  
and Immigration  
Services

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[REDACTED]

FILE: [REDACTED]  
MSC 02 107 60455

Office: HOUSTON Date: FEB 26 2008

IN RE: Applicant:

[REDACTED]

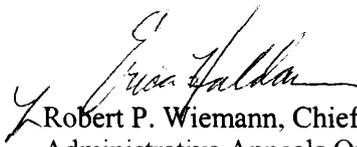
APPLICATION: Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), amended by Life Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000).

ON BEHALF OF APPLICANT:

[REDACTED]

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. If your appeal was sustained, or if your case 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.

  
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, Houston, 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. Specifically, the director determined that the applicant had provided inconsistent verbal testimony and documentation.

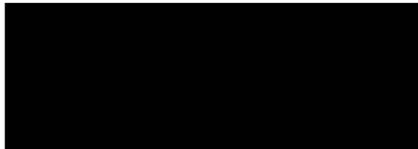
On appeal, the applicant submits an affidavit, alleging that she submitted documentation to clarify the inconsistencies raised by the director, but due to a typographical error, it was not incorporated into the record and therefore not considered by the director. The applicant resubmits this documentation which includes numerous affidavits, and requests that this evidence be considered in support of the application.

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).

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 her Form I-687, Application for Status as a Temporary Resident, which she signed under penalty of perjury on June 17, 1991, the applicant stated that she last entered the United States in September 1981. Furthermore, she claimed in Section 33 of the form to live at the following addresses in Houston, Texas during the requisite period:

September 1981 to January 1987:  
February 1987 to January 1988:  
February 1988 to August 1989:



Regarding her employment during the requisite period, the applicant claimed in Section 36 of the form that she worked for National Health Care Linen as a packer from October 1985 to the present.

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

- (1) Affidavit for [redacted] with Alias dated August 11, 1991, by [redacted]. Mr. [redacted] claimed that he has known the applicant since October 1985 because she worked with the same company, and that he was a supervisor for that company. He further claims that he knew her as "[redacted]" which was the name of her sister.
- (2) Contract Labor Affidavit dated September 30, 1992 by [redacted] claiming that the applicant has done work for him since October 1985. The affidavit claimed that her work was contract labor, and he paid her \$3.35 and \$4.25 per hour.

- (3) Affidavit dated June 13, 1991 by [REDACTED] claiming that she met the applicant at home in October 1981. She claims that the applicant resided at [REDACTED] when she met her. She further claims that they are friends and that she sees the applicant on a weekly basis.
- (4) Affidavit dated June 13, 1991 by [REDACTED] claiming that he met the applicant at home in November 1981. He claims that the applicant resided at [REDACTED] when he met her. He further claims that they are friends and that he sees the applicant on a weekly basis.
- (5) Affidavit dated June 13, 1991 by [REDACTED], claiming that he met the applicant at home in December 1981. He claims that the applicant resided at [REDACTED] when he met her. He further claims that they are friends and that he sees the applicant on a weekly basis.
- (6) Affidavit dated June 13, 1991 by [REDACTED], sister of the applicant, claiming that the applicant resided with her since her arrival in the United States in September 1981. She claims that they resided together at the following addresses in Houston:

9/81 until 1/87 [REDACTED]  
2/87 until 1/88 [REDACTED]  
2/88 until 8/89 [REDACTED]

- (7) Affidavit of Support dated August 6, 1991 by [REDACTED] claiming that she is willing to support the applicant by providing "room and board and anything she may need."

The applicant also submits several receipts and utility bills in the name of [REDACTED]. Many of these receipts omit the address at which she lived, and none of these documents identify the applicant.

On October 22, 2004, CIS issued a Notice of Intent to Deny the application. The director noted that the record did not contain credible and verifiable evidence that the applicant continually resided in the United States since before January 1, 1982 through May 4, 1988. Specifically, the director noted that the telephone number provided on the affidavits of [REDACTED] was identical to the telephone number of the applicant's current employer, [REDACTED]. The applicant was afforded the opportunity to submit additional evidence to clarify this issue and support her claim. No response was received, and the application was denied on January 24, 2005.

On appeal, the applicant submits an affidavit, claiming that a response to the NOID was in fact filed. The applicant points out that the Notice of Intent to deny, issued on October 22, 2004, contained a typographical error in the A number. In preparing the response, the applicant reproduced this erroneous A number, and contends that as a result of this error, the response was never matched with the file. The applicant submits a copy of the original response and accompanying affidavits, and requests consideration of this documentation on appeal.

On appeal, the applicant furnished the following evidence:

- (1) Copy of un-notarized affidavit dated November 2004 by applicant. In the affidavit, the applicant claimed that the telephone number provided by [REDACTED] in the Contract Labor Affidavit was his work telephone number at their employer, National Healthcare Linen Services, to ensure that he could be reached during the day. The applicant further contends that the company has changed its name several times, first to [REDACTED], then to [REDACTED] and finally to [REDACTED]. She also provided updated contact information for [REDACTED].
- (2) Affidavit dated November 19, 2004 by [REDACTED], restating the addresses listed in her affidavit dated June 13, 1991.
- (3) Affidavit dated November 8, 2004 by the applicant's parents, [REDACTED] and [REDACTED], stating that the applicant traveled to the United States to help baby-sit her sister [REDACTED]'s two children. They claim that the applicant has been living in the United States since 1981.
- (4) Affidavit dated August 10, 2004 by [REDACTED], sister of the applicant, claiming that the applicant arrived in the United States in September 1981 when she was 10 years old. She claims that her sister did not attend school in the United States, and began working for [REDACTED] when she was fifteen years old.
- (5) Affidavit of Credible Witness dated November 10, 2004 by [REDACTED], stating that she has known the applicant in the United States since March 1983. She claims that they met through mutual friends and that they see each other approximately every weekend. She claims that they take their kids to the park together or go out to eat.
- (6) Affidavit dated November 4, 2004 by [REDACTED] who states that she has known the applicant since October 1984. She claims that the applicant was friends with her sister, and that the applicant would often eat at the restaurant at which her sister worked. She further claims that the applicant and her sister became good friends, would go out together, and sometimes have sleepovers. [REDACTED] does not provide the name of her sister.
- (7) Affidavit dated November 10, 2004 by [REDACTED] claiming that she has known the applicant since September 1981. She claims that the applicant lived with her sister Irma, and that she [REDACTED] was [REDACTED]'s babysitter every once in a while. She claims that shortly after her arrival, the applicant began working for National Heaten [sic] Linen Service, and that she herself later worked there as well.
- (8) Affidavit dated November 10, 2004 by [REDACTED] who states that she has known the applicant since November 1981. She claims that she met the applicant through her sister. She further claims that she invited the applicant to become a member of her church, and she has been a member ever since.

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 quality 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 the applicant claims she entered the United States in September 1981, she likewise claims that she entered without inspection. As a result, there is no documentary evidence in the form of an arrival-departure record or stamped passport to verify the exact date of entry. In addition, the applicant was just ten years old when she claims she entered the United States in 1981, yet she has not provided any school records showing attendance at a school in this country.<sup>1</sup> In fact, she has not submitted any contemporaneous documentation to establish presence in the United States from the time she claimed to have commenced **residing in the U.S. through May 4, 1988. In light of the fact that the applicant claims to have continuously resided in the United States, this inability to produce contemporaneous documentation of residence raises serious questions regarding the credibility of the claim.**

In support of the contention that she entered the United States prior to January 1, 1982, the applicant submits a number of affidavits from acquaintances, claiming they met her at various intervals in late 1981.

While there is no specific regulation which governs what third party individual affidavits should contain to be of sufficient probative value, the regulations do set forth the elements which affidavits from organizations are to include. 8 C.F.R. § 245a.2(d)(3). These guidelines provide a basis for a flexible standard of the information which an affidavit should contain in order to render it probative for the purpose of comparison with the other evidence of record.

According to the guidelines set forth in 8 C.F.R. § 245a.2(d)(3), a signed attestation should contain (1) an identification of the applicant by name; (2) the dates of the applicant's continuous residence to which the affiant can personally attest; (3) the address(es) where the applicant resided throughout the period which the affiant has known the applicant; (4) the basis for the affiant's acquaintance with the applicant; (5) the means by which the affiant may be contacted; and, (6) the origin of the information being attested to. *See* 8 C.F.R. § 245a.2(d)(3)(v).

While these standards are not to be rigidly applied, an application which is lacking in contemporaneous documentation cannot be deemed approvable if considerable periods of claimed continuous residence rely entirely on affidavits which are considerably lacking in such basic and necessary information.

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<sup>1</sup> It is noted that her sister [REDACTED] claimed that they were “afraid” to enroll her in school in her affidavit dated August 10, 2004.

The affidavits submitted in support of this application fall far short of meeting the above criteria. A number of the affidavits submitted with the initial application, specifically the affidavits of [REDACTED], and [REDACTED] are boilerplate, consist of fill-in-the-blank statements, and provide little information. Therefore, they are of little probative value. For example, while each affiant claims to have met the applicant "at home" in late 1981, they fail to expand on the nature of their acquaintance with the applicant. The affidavit of [REDACTED] who claims that the applicant was good friends with her sister, fails to identify her sister by name or provide more specific details. The affidavit of [REDACTED] stating that she has known the applicant in the United States since March 1983, also omits essential information such as where the applicant resided during their acquaintance.

The affidavits of the applicant's sister, [REDACTED] are also lacking in essential information and are somewhat confusing. In her affidavit of support, signed in 1991, [REDACTED] claims that her two children are 10 years old. Therefore, it is evident that the children were born in approximately 1981. The affidavit of the applicant's parents contends that she came to the United States to baby-sit her sister's children. However, since the applicant herself was merely ten years old at the time, it seems unlikely that she would have entered the United States solely to provide care for two newborns. Finally, in her affidavit dated November 10, 2004, [REDACTED] claims that she was [REDACTED]'s babysitter and that is how she met the applicant. 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. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Id.* at 591.

The applicant also provided two affidavits from [REDACTED], her alleged employer since October 1985. The affidavit, entitled "Contract Labor Affidavit," does not meet the regulatory requirements. Specifically, in lieu of an employment letter, CIS will accept an affidavit form-letter stating that the alien's employment records are unavailable and why they are unavailable, as well as the employer's willingness to come forward and give testimony as requested. *See* 8 C.F.R. § 245.a2(d)(3)(i)(F). The affidavit of [REDACTED] does not state this information.

As stated above, the inference to be drawn from the documentation provided shall depend on the extent of the documentation. Although numerous affidavits of acquaintance have been submitted, many of these affidavits are boilerplate and state no specific details regarding the applicant's presence in the United States. Furthermore, there are no school records, employment records, or tangible documentation such as letters addressed to the applicant at her alleged U.S. address during the relevant period, to show by a preponderance of the evidence that the applicant satisfied the regulatory requirements.

Given the absence of contemporaneous documentation and the reliance on affidavits which do not meet basic standards of probative value, it is concluded that the applicant has failed to establish, by a preponderance of evidence, that she continuously resided in the United States in an unlawful status since before January 1, 1982 through May 4, 1988. Therefore, 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.