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U.S. Citizenship  
and Immigration  
Services

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FILE:

MSC 03 245 65901

Office: LOS ANGELES

Date: JUL 14 2008

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. 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.

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, 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 (1) continuously resided in the United States in an unlawful status since before January 1, 1982 through May 4, 1988; or (2) maintained continuous physical presence in the in the United States during the period from November 6, 1986 through May 4, 1988.

On appeal, the applicant claims that she is statutorily eligible, and urges reconsider. In support of the appeal, the applicant submits a brief and additional evidence.

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 for determination of class membership, which she signed under penalty of perjury, the applicant claimed that she first entered the United States in September 1981 when she crossed the border without inspection. Form I-687, Application for Status as a Temporary Resident, which she also signed under penalty of perjury, the applicant claimed to have resided at the following addresses during the requisite period:

1981 to 1984:

1984 to 1989:

The applicant also claimed on Form I-687 that she worked as a housekeeper and babysitter for [REDACTED] from 1981 to 1989.

In an attempt to establish continuous unlawful residence since before January 1, 1982 through May 4, 1988 and continuous physical presence in the United States from November 6, 1986 through May 4, 1988, as claimed, the applicant furnished the following evidence:

- (1) Corroborative affidavit dated June 12, 1993 by [REDACTED], claiming that the applicant has been working for her since 1981. She claims that the applicant was only absent from the United States for 18 days during the requisite period, when she visited a doctor in Tijuana, Mexico.
- (2) Affidavit dated June 21, 1993 by [REDACTED] claiming that he has known the applicant since September 1981 when he met her in a public park.
- (3) Affidavit dated June 21, 1993 by [REDACTED] claiming that he met the applicant at her sister's house in Burbank, California in 1981.

- (4) Corroborative affidavit dated June 10, 1993 by [REDACTED], claiming that she accompanied the applicant to the Greyhound bus depot on June 26, 1987 before the applicant departed for Tijuana. She claims that the applicant returned from Mexico on July 14, 1987.
- (5) Undated affidavit by [REDACTED], sister of the applicant, claiming that the applicant lived with her at [REDACTED], Burbank, California from 1981 to 1984 and that all bills and utilities were in the affiant's name.
- (6) Letter dated June 21, 1993 by [REDACTED] Pastor of the Catholic Community of St. Finbar in Burbank, California. He states that the applicant officially registered with the church that day, yet she claims to have been a parishioner there since 1982. He states that he has no reason to doubt her honesty.
- (7) Letter dated May 29, 2003 by [REDACTED], claiming that she has known the applicant since 1981. Ms. [REDACTED] claims that the applicant worked as her housekeeper from September 1981 until November 1985 and that she resided with her at [REDACTED], Pacoima, CA 91331 during this period of employment.
- (8) Letter dated May 29, 2003 by [REDACTED] claiming that she has known the applicant for 22 years and is aware that the applicant has been living in the United States since 1981.
- (9) Letter dated May 30, 2003 by [REDACTED], claiming that the applicant resided with her from September 1985 through November 1989 at [REDACTED], North Hollywood, California 91605. She claims that in exchange for housekeeping and babysitting services, she did not charge the applicant rent.
- (10) Recommendation letter dated May 28, 2003 by [REDACTED] and [REDACTED], certifying that the applicant worked as their housekeeper from December 1985 through January 1989.
- (11) Letter dated March 13, 2006 by [REDACTED] O.M.I., Associate Pastor of Mary Immaculate Church, claiming that the applicant is a registered parishioner and has been a member of the church community for 25 years.

On May 8, 2006, CIS issued a Notice of Intent to Deny the application. The district director noted that despite the applicant's claim that she continually resided in the United States since September 1981 with the exception of one trip to Mexico, the record did not contain credible evidence to support a finding that the applicant was continually present from 1982 through 1988. The district director noted that the absence of an arrival record and the weakness of her supporting affidavits cast doubt on her claims of continuous residence and presence. The applicant was afforded the opportunity to respond to this notice and submit additional evidence to overcome the basis for the director's objections.

In a response dated May 31, 2006, the applicant claimed that she has in fact been continuously residing in the United States since September 1981. She claims that because she was employed as a babysitter and a

housekeeper, she has no official records to support her presence during the requisite period. She stated that she would submit additional evidence as it became available.

The director denied the application on September 12, 2006, noting that there was insufficient evidence to show that the applicant maintained continuous unlawful residence and physical presence during the requisite period.

On appeal, the applicant again contends that she was in fact present during the required periods, and submits additional evidence, such as letters of support and property and utility bills for the persons with whom she claimed to reside during the requisite period.

The first issue on appeal is whether the applicant has demonstrated that she had continuously resided in the United States in an unlawful status since before January 1, 1982 through May 4, 1988, as required by 8 C.F.R. § 245a.11(b).

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 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.

The *Matter of E—M-* provides guidance in assessing evidence of residence, particularly affidavits. *See* 20 I&N Dec. 77. In that case, the applicant had established eligibility by submitting (1) the original copy of his Arrival Departure Record (Form I 94), dated August 27, 1981; (2) his passport; (3) affidavits from third party individuals; and (4) an affidavit explaining why additional original documentation is unavailable. Furthermore, the officer who interviewed that applicant recommended approval of the application, albeit, with reservations and suspicion of fraud.

In this case, the director relied on the *Matter of E-M* when reviewing the applicant's evidence and issuing the notice of intent to deny. Specifically, the director noted that since the applicant claimed to enter the United States without inspection in September 1981, she did not have a Form I-94 or a stamped passport to support her claim of first entry. The director concluded that the affidavits submitted by the applicant, therefore, did not have a solid evidentiary foundation upon which to support her claim of her continuous residence during the relevant period.

The AAO concurs with the director's findings. The affidavits upon which the applicant relies contain numerous inconsistencies and contradictions that have not been reconciled. The AAO will first address the applicant's claims of residence during the requisite period.

On Form I-687, which she signed under penalty of perjury, the applicant claimed to reside at [REDACTED] Burbank, CA 91501 from 1981 to 1984 and at [REDACTED] Burbank, CA 91501. However, on her Form G-325 A, Biographic Information, the applicant indicated that she resided at different addresses during this same period. Specifically, she claimed that she resided at [REDACTED], Pacoima, CA 91331 from September 1981 to November 1985, and at [REDACTED], North Hollywood, CA 91605 from September 1985 to January 1989.<sup>1</sup> These two documents, both signed by the applicant, contain vastly different address records.

In reviewing the affidavits in support of her residence during this period, it appears that additional discrepancies are contained therein. In the undated affidavit of [REDACTED] sister of the applicant, it is claimed that the applicant lived with her at [REDACTED] Burbank, California from 1981 to 1984. Based on the applicant's statements and the letter of [REDACTED] the record contains three conflicting accounts of the applicant's residence from 1981 to 1984. 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).

The record also contains two letters which corroborate the claims made by the applicant on her Form G-325 A. A letter dated May 29, 2003 by [REDACTED] claims that the applicant resided with her at [REDACTED], Pacoima, CA 91331 from September 1981 until November 1985 when the applicant worked as her housekeeper. On appeal, the applicant submits an additional affidavit dated May 3, 2006 by [REDACTED] which affirms these claims, along with copies of bills and other correspondence demonstrating that [REDACTED] lived at [REDACTED] during the claimed period. No documentation reflecting that the applicant resided at this address is submitted. Finally, a letter dated May 30, 2003 by [REDACTED] claims that the applicant resided with her from September 1985 through November 1989 at [REDACTED], North Hollywood, California 91605, which corroborates the applicant's claims on Form G-325 A.

While these two letters appear to corroborate the applicant's claimed places of residence as set forth on Form G-325 A, it should be noted that the applicant claimed, under penalty of perjury on Form I-687, that she resided at different addresses during this period. Moreover, the unnotarized affidavit of the applicant's sister claims that the applicant resided at an entirely different address from 1981 to 1984. A few errors or minor discrepancies are not reason to question the credibility of an alien seeking immigration benefits. *See, e.g., Spencer Enterprises Inc. v. U.S.*, 345 F.3d 683, 694 (9th Cir., 2003). However, anytime an application includes numerous errors and discrepancies, and the applicant fails to resolve those errors and discrepancies after CIS provides an opportunity to do so, those inconsistencies will raise serious concerns about the veracity of the petitioner's assertions. Doubt cast on any aspect of

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<sup>1</sup> There is no explanation with regard to the overlapping of her residence at [REDACTED], where she claimed to reside until November 1985, and her residence at [REDACTED] which she claims she commenced in September 1985.

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. at 591. In this case, the discrepancies and errors catalogued above lead the AAO to conclude that the evidence of the applicant's eligibility is not credible.

In addition, the applicant submits two letters from pastors of Catholic churches in California in support of her continuous residence and physical presence during the requisite period. Pursuant to 8 C.F.R. § 245a(4)(iv)(E), attestations by churches, unions, or other organizations as to the applicant's residence by letter are considered acceptable if they:

- (1) Identify applicant by name;
- (2) Are signed by an official (whose title is shown);
- (3) Show inclusive dates of membership;
- (4) State the address where applicant resided during membership period;
- (5) Include the seal of the organization impressed on the letter or the letterhead of the organization, if the organization has letterhead stationery;
- (6) Establish how the author knows the applicant; and
- (7) Establish the origin of the information being attested to

The first letter submitted by the applicant is from by [REDACTED], Pastor of the Catholic Community of St. Finbar in Burbank, California. In his letter dated June 21, 1993, he states that the applicant officially registered with the church that day, yet states that she claims to have been a parishioner there since 1982. He states that he has no reason to doubt her honesty. This letter is insufficient for two reasons. First, it omits required information set forth in the regulation above. For example, it does not show her inclusive dates of membership nor does it state her address or addresses at the time of her membership period. More importantly, however, is the fact that the applicant did not officially join the church until June 21, 1993. The pastor does not attest to knowing the applicant personally and as a result, the applicant's claimed membership in St. Finbar's church cannot be verified.

The second letter dated March 13, 2006 by [REDACTED] O.M.I., Associate Pastor of Mary Immaculate Church, claims that the applicant is a registered parishioner and has been a member of the church community for 25 years. This letter is also deficient for two reasons. First, it also omits required information set forth in the regulation at 8 C.F.R. § 245a(4)(iv)(E). For example, although it provides the applicant's current address, it does not list her address history during her alleged 25 period of membership. Although it claims that she has been a member for 25 years, the letter does not list her inclusive dates of membership. Moreover, the letter does not establish how the author knows the applicant, nor does it establish the origin of the information being attested to. Finally, [REDACTED] refers to the applicant as "he" in the letter. In addition, the claims in this letter severely contradict the claims of [REDACTED]. According to him, the applicant told him that she had been a member of St. Finbar's since 1982 and that she officially registered in 1993. However, according to [REDACTED] the applicant was a registered member at Mary Immaculate Church for 25 years, or since 1981. As

previously stated, 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. at 591-92. If CIS fails to believe that a fact stated in the petition is true, CIS may reject that fact. Section 204(b) of the Act, 8 U.S.C. § 1154(b); *see also Anetekhai v. I.N.S.*, 876 F.2d 1218, 1220 (5th Cir.1989); *Lu-Ann Bakery Shop, Inc. v. Nelson*, 705 F. Supp. 7, 10 (D.D.C.1988); *Systronics Corp. v. INS*, 153 F. Supp. 2d 7, 15 (D.D.C. 2001).

The applicant claims that she worked as a babysitter and as a housekeeper during the requisite period, and submits numerous letters for her alleged employers in support of this contention. The regulation at 8 C.F.R. § 245a.2(d)(3)(i) outlines the requirements for employment letters, which include writing letters on employer letterhead stationery, providing the applicant's address at the time of employment, and declaring whether the information was taken from company records and identify the location of such company records and state whether such records are accessible or in the alternative state the reason why such records are unavailable. In this matter, the letters submitted do not comply with these regulations, since the employers were not official businesses and essentially paid the applicant in an "under-the-table" fashion. However, the letters do state the claimed periods of employment for the applicant. For example, the corroborative affidavit by [REDACTED], dated June 12, 1993, claims that the applicant worked for her from 1981 to 1993, and the letter by [REDACTED] dated May 29, 2003, claims that the applicant worked as her housekeeper from September 1981 until November 1985. A letter from [REDACTED] and [REDACTED] dated May 28, 2003 claims that the applicant worked as their housekeeper from December 1985 through January 1989. Finally, the May 30, 2003 letter of [REDACTED] claims that the applicant worked as her housekeeper from September 1985 through November 1989 in exchange for room and board.

A review of the applicant's Form I-687 shows that according to the applicant, she worked only for [REDACTED] and [REDACTED] during the requisite period. Neither the affiants nor the applicant have presented evidence of payment to the applicant, such as cancelled checks, receipts, bank statements, or tax papers. Moreover, as discussed above, the veracity of the evidence submitted by the applicant is questionable based on the numerous discrepancies in the record. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

The above negative factors would not necessarily be fatal to the applicant's claim, if the affidavits upon which the claim relies are consistent both internally and with the other evidence of record, plausible, credible, and if the affiant sets forth the basis of his knowledge for the testimony provided.

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.

The affidavits and letters submitted in support of this application fall far short of meeting the above criteria. In addition to the letters already discussed above, the record contains additional affidavits by [REDACTED] and [REDACTED], both executed on June 21, 1993, claiming that they met the applicant in a public house and at the applicant's sister's house, respectively. Neither of the affidavits states the basis for the affiants' acquaintance with the applicant or the origin of the information being attested to. Moreover, the minimal information provided is of little probative value.

Given the absence of 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.

The second issue on appeal is whether the applicant has maintained continuous physical presence in the United States during the period from November 6, 1986 through May 4, 1988.

The applicant claimed one absence from the United States during the requisite period, from June 26, 1987 to July 14, 1987, when she traveled to Tijuana to visit a doctor. While the applicant submits two corroborative affidavits in support of this contention, the totality of the evidence in the record is insufficient to establish her continuous physical presence during the above-referenced period. The applicant submits no documentary evidence, such as a Form I-94 or a stamped passport evidencing her entry and exit from the United States. Although not required, the absence of such documentary evidence coupled with the overall weak and contradictory affidavits in the record render it impossible for the AAO to conclude that the applicant maintained continuous physical presence in the United States from November 6, 1986 to May 4, 1988.

As previously stated, a few errors or minor discrepancies are not reason to question the credibility of an alien seeking immigration benefits. *See, e.g., Spencer Enterprises Inc. v. U.S.*, 345 F.3d at 694. However, the numerous errors and discrepancies in this application, and the applicant's failure to resolve these errors and discrepancies raises serious concerns about the credibility of the applicant's claims overall. 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. at 591. In this case, the discrepancies and errors catalogued above lead the AAO to conclude that the evidence of the applicant's eligibility is not credible.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.