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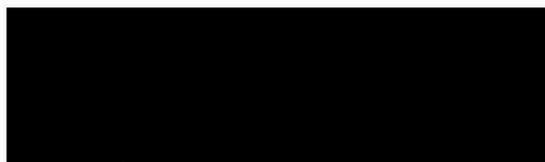
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] Office: LOS ANGELES Date: **JUL 17 2008**
MSC 02 248 61573

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. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits Center. 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. If your appeal was sustained or remanded for further action, you will be contacted.

A handwritten signature in black ink, appearing to read "R. Wiemann".

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 established that she entered the United States prior to January 1, 1982, and continuously resided in an unlawful status through May 4, 1988.

On appeal, the applicant asserts that her case has not been considered fully, and that a “careful and kindly focused attention . . . will reveal” that she has resided in the United States since prior to January 1, 1982. The applicant submits a statement 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. 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).

In an affidavit to determine class membership, which she signed under penalty of perjury, the applicant stated that she first entered the United States in 1980, when she crossed the border without inspection. The applicant stated on her Form I-687, Application for Status as a Temporary Resident, which she signed under penalty of perjury on April 17, 1990, that she left the United States once during the requisite period, from 1985 to 1987, when she traveled to Iran for a visit. The applicant stated that she lived at the following locations during the qualifying period: from 1980 to 1983, at [REDACTED] in Los

Angeles, California; from 1983 to 1985, at [REDACTED] in Fullerton, California; and from 1987 to the date of her Form I-687 application, at [REDACTED], in Anaheim, California. The applicant indicated that she did not work during the qualifying period.

The applicant submitted a single affidavit attesting to her continuous unlawful residence since before January 1, 1982, through May 4, 1988. The April 20, 1990, affidavit from [REDACTED], confirmed the dates and addresses at which the applicant stated she lived during the qualifying period. The affiant indicated that he was a family friend, but did not state the duration of his friendship with the applicant or the basis of his knowledge regarding her residency in the United States.

The applicant alleges, and CIS records confirm, that she entered the United States pursuant to a B-2, nonimmigrant visitor's visa on January 21, 1987. The record contains documentation that the applicant filed a Form I-539, Application to Extend Time of Temporary Stay, on July 2, 1987, which was initially denied by the Director, Western Service Center, on April 20, 1988. The applicant moved to reopen the denial of her application on May 20, 1988. However, the motion was returned because it was not accompanied by a fee and did not contain a copy of the form that was subject to the denial.

In a Notice of Intent to Deny (NOID) dated September 1, 2006, the director advised the applicant that she had not submitted sufficient evidence to establish that she entered the United States prior to January 1, 1982, and continuously resided in an unlawful status through May 4, 1988. The director specifically found that the applicant had submitted no evidence of her entry prior to January 1, 1982. The director noted that the applicant had stated on a Form I-589, Request for Asylum in the United States, that she first entered the United States in 1987. The director also erroneously concluded that under *Matter of E-M-*, affidavits could be used to establish residency only if the applicant first establishes proof of entry through a Form I-94, Arrival-Departure Record, or equivalent documentation.

In response to the NOID, the applicant submitted a copy of her Iranian passport containing an entry revealing that she had entered the United States pursuant to a B-2 visa on July 19, 1978. The applicant also submitted a statement in which she stated that she came to the United States as a visitor in 1978, but returned to Iran and entered school. She stated that after the Iranian Revolution, she returned to the United States illegally through Mexico, but returned to Iran in late 1986 to marry, and then returned to the United States in January 1987. The applicant also submitted an October 1, 2006, affidavit from [REDACTED] in which she stated that from 1981 to 1986, relatives of the affiant or her husband had, when they visited the United States, brought money or other items of monetary value to the applicant from her parents in Iran.

The director concluded that the applicant had failed to establish that she resided in the United States for the requisite period, and denied the application on October 3, 2006.

On appeal, the applicant again states that she returned to Iran in 1986 to get married and came back to the United States in January 1987. She states that she is unable to obtain other documentation of her residence in the United States during the qualifying period because, for example, the apartment building at which she lived is under new management and do not have records dating back to the 1980's, and the California Department of Motor Vehicle offices do not maintain records beyond 10 years.

Nonetheless, the applicant's version of events is rife with contradictions. The applicant claims that she left the United States in 1986 to marry and that she returned in January 1987. However, on her Form G325A, Biographic Information, she stated that she married her husband in Iran on January 8, 1985. On her Form I-687 application, the applicant stated that she received a visa in Ankara, Iran on October 28, 1986. She

confirmed this date on a Form I-102, Application by Nonimmigrant Alien for Replacement of Arrival Document, which she signed under penalty of perjury on August 8, 1987. Furthermore, on her Form I-687 application, the applicant did not list any residences in the United States in 1986, and the single affidavit submitted in support of her application also did not identify any residences for the applicant during that year.

In response to the NOID, the applicant submitted the first page of her I-589 application, which she states confirms that she entered the United States in 1978. However, the applicant identified no other entries prior to her arrival on January 21, 1987, pursuant to her B-2 visa.

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. Doubt cast on any aspect of the applicant's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa application. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988).

The applicant has submitted no independent objective evidence to resolve the inconsistencies in her statements. Therefore, the reliability of the remaining evidence offered by the applicant is suspect, and it must be concluded that she has failed to establish by a preponderance of the evidence that it was more likely than not that she resided continuously in the United States during the qualifying period.

Therefore, based on the above, the applicant has failed to establish entry into the United States prior to January 1, 1982, and continuous unlawful residence through May 4, 1988, as required under Section 1104(c)(2)(B) of the LIFE Act. Given this, she 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.