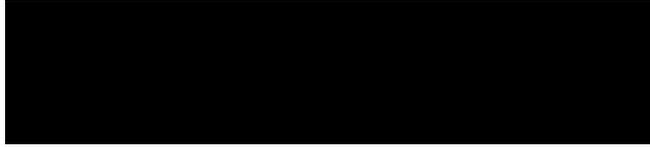


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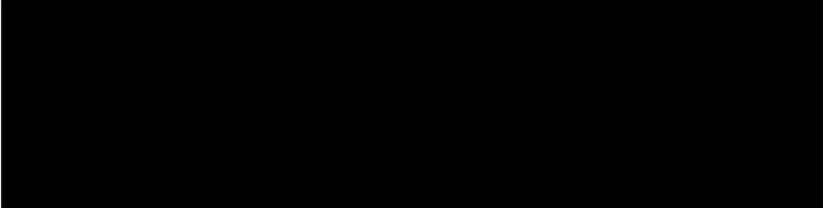
Office: LOS ANGELES

Date: **JUN 04 2008**

MSC 02 218 60055

IN RE:

Applicant:



PETITION: 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.

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 failed to establish residence in the United States in an unlawful status from January 1, 1982 through May 4, 1988, as required by section 1104(c)(2)(B) of the LIFE Act.

On appeal, the applicant contends that she has submitted sufficient evidence to Citizenship and Immigration Services or CIS (formerly the Immigration and Naturalization Service or the Service) to establish that she resided in the United States since 1980.

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 and 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 under the provisions of section 212(a) of the Immigration and Nationality Act (Act), and is otherwise eligible for adjustment of status under this section. Section 1104 (c)(2) of the LIFE Act. 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 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. 8 C.F.R. § 245a.2(d)(3)(vi)(L).

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.* at 80. 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, 423 (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.

The issue to be examined in this proceeding is whether the applicant has submitted sufficient credible evidence to meet his or her burden of establishing continuous unlawful residence in the United States during the entire requisite period. Here, the applicant has failed to meet this burden.

The applicant made a claim to class membership in a legalization class-action lawsuit and as such, was permitted to previously file a Form I-687, Application for Temporary Resident Status Pursuant to Section 245A of the Act on or about September 29, 1993. At part #33 of the Form I-687 application where applicants were asked to list all residences in this country since first entry, the applicant listed [REDACTED] in Kaufman, Texas from May 1980 to January 1985, [REDACTED] in Kaufman, Texas from January 1985 to August 1985, [REDACTED] in Los Angeles, California from August 1985 to November 1985, [REDACTED] in Los Angeles, California from November 1985 to May 1988 and [REDACTED] in Los Angeles, California from May 1988 to June 1989. Subsequently, on May 23, 2002, the applicant filed her Form I-485 LIFE Act application.

In support of her claim of residence in the United States since prior to January 1, 1982, the applicant submitted an affidavit that is signed by [REDACTED]. Mr. [REDACTED] provided a listing of his addresses of residence in this country from 1974 to 1993 and stated that the applicant was his sister. Mr. [REDACTED] indicated that he provided support to the applicant while she lived with him at [REDACTED] and then [REDACTED] in Kaufman, Texas from May 1980 until June 1985.

The applicant included an affidavit signed by [REDACTED] who provided a listing of his addresses of residence in the United States from 1973 to 1993. [REDACTED] noted that [REDACTED] was his brother and the applicant had lived with his brother from 1980 to 1985.

The applicant provided an affidavit that is signed by [REDACTED]. Mr. [REDACTED] stated that the applicant lived with his brother [REDACTED] from May 1980 to 1985. Mr. [REDACTED] provided a listing of his addresses of residence in this country from November 27, 1974 to 1993.

The testimony contained in the affidavits of [REDACTED], [REDACTED], and [REDACTED] establishes that the applicant is the sister of these three affiants. Consequently, the probative value of the testimony of these three affiants is limited in that they have acknowledged that they are members of the applicant's immediate family who must be viewed as having an interest in the outcome of these proceedings, rather than independent and disinterested third parties. In addition, neither [REDACTED] nor [REDACTED] provided any specific and verifiable testimony to substantiate the applicant's claim of residence in the United States for the requisite period.

The applicant submitted contemporaneous documents including birth certificates, immunization records, and a California Department of Motor Vehicle Identification Card that tend to demonstrate her residence in this country after May 16, 1983. However, the applicant failed to submit sufficient credible and verifiable evidence of her residence in this country from prior to January 1, 1982 up through May 16, 1983.

The district director subsequently issued a notice to the applicant on February 9, 2005, informing her of CIS' intent to deny her Form I-485 LIFE Act application. The district director noted that the applicant had failed to submit sufficient evidence to corroborate her claim of continuous residence in this country from prior to January 1, 1982 to May 4, 1988. The district director also concluded that [REDACTED] and [REDACTED] all attributed listings of addresses of residence and corresponding dates that contradicted the applicant's recitation of her addresses of residence in this country during the period in question. However, upon review it is evident that this conclusion was in error as the three affiants provided a listing of each of their respective residences in the United States and not the applicant's residences in this country. The applicant was granted thirty days to respond to the notice.

In response, the applicant submitted a statement in which she pointed out the error made in interpreting the testimony of [REDACTED], and [REDACTED] relating to her addresses of residence in this country during the requisite period. The applicant included copies of previously submitted documentation with her response.

The district director determined that the applicant had failed to submit sufficient evidence to corroborate her claim of continuous residence in this country for the entire period from prior to January 1, 1982 to May 4, 1988 and denied the Form I-485 LIFE Act application on February 23, 2005.

On appeal, the applicant contends that she has submitted sufficient evidence to CIS to establish that she resided in the United States since 1980. Although the record contains evidence that tends to corroborate the applicant's claim of residence in this country after the birth of her daughter on May 16, 1983, she has provided only the affidavits of her three brothers to support her claim of residence in the United States from the date of her claimed entry into this country in 1980 through May 16, 1983. Further, two of the three affidavits provided by the applicant's brothers do not contain sufficiently detailed and verifiable testimony to substantiate her claim of residence in this country since 1980. More importantly, the applicant failed to provide any independent evidence to support her claim of residence in the United States from 1980 up until May 16, 1983.

Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the 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).

The absence of independent and credible supporting documentation containing verifiable testimony seriously undermines the credibility of the applicant's claim of residence in this country for the period in question. Pursuant to 8 C.F.R. § 245a.12(e), the inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. The applicant has failed to submit sufficient credible documentation to meet her burden of proof in establishing that she has resided in the United States since prior to January 1, 1982 to May 4, 1988 by a preponderance of the evidence as required under both 8 C.F.R. § 245a.12(e) and *Matter of E-- M--*, 20 I&N Dec. 77 (Comm. 1989).

Given the applicant's failure to provide sufficient credible evidence to corroborate her claim of residence for the entire requisite period, it is concluded that she has failed to establish continuous residence in an unlawful status in the United States from prior to January 1, 1982 as required under section 1104(c)(2)(B) 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.