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U.S. Citizenship  
and Immigration  
Services

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FILE:

MSC 02 253 60788

Office: NEW YORK

Date:

**MAR 19 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.

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, New York, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application because the applicant failed to establish that she entered the United States before January 1, 1982, and that she resided continuously in the United States in an unlawful status since that date through May 4, 1988.

On appeal, applicant asserts that she has resided in the United States since 1981. She also attempts to resolve any discrepancies noted in the director's Notice of Decision (NOD). She attaches additional evidence in support of her claim.

Section 1104(c)(2)(B) of the LIFE Act states:

(i) In General – The alien must establish that the alien entered the United States before January 1, 1982, and that he or she has resided continuously in the United States in an unlawful status since such date and through May 4, 1988. In determining whether an alien maintained continuous unlawful residence in the United States for purposes of this subparagraph, the regulations prescribed by the Attorney General under section 245A(g) of the Immigration and Nationality Act (INA) that were most recently in effect before the date of the enactment of this Act shall apply.

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.* 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 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, 431 (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.

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. *See* 8 C.F.R. § 245a.2(d)(3)(vi)(L).

At issue in this proceeding is whether the applicant has submitted sufficient credible evidence to meet her burden of establishing entry into the United States before January 1, 1982, and continuous unlawful residence in the United States during the requisite period. Here, the applicant has failed to meet this burden.

In the Notice of Intent to Deny (NOID), dated April 7, 2005, the director stated that record contained several discrepancies and the applicant failed to submit any verifiable evidence to establish her claimed entry into the United States before January 1, 1982, and continuous unlawful presence during the requisite period. The director granted the applicant thirty (30) days to submit a rebuttal or additional evidence. The applicant submitted a hand-written letter attempting to explain the discrepancies.

In the NOD, dated September 8, 2005, the director determined that applicant's letter failed to overcome the reasons for denial stated in the NOID. The director denied the instant application and determined that the applicant was ineligible for adjustment of status under LIFE Legalization.

In support of her claim, the applicant submitted several affidavits. The record contains a notarized letter by [REDACTED], dated April 10, 2005. The affiant stated that the applicant has been her long-term friend from 1971 in Trinidad. The affiant also stated that she met the applicant again in the United States when she lived at the Mission house at [REDACTED] in Brooklyn. However, the applicant did not state a specific date. The affiant further stated that she visited the applicant on several occasions from February 1982 until the 1990s. The affiant provided her telephone number, address of residence, and New York identification card. The affiant does not have first-hand knowledge of the applicant's entry into the United States. Although the affiant indicated that she visited the applicant starting in 1982, she did not provide any specific dates or details to corroborate her claim. The lack of specific details provides minimal probative value.

The record contains three fill-in-the-blank affidavits by [REDACTED], [REDACTED], and [REDACTED]. All of the affidavits are virtually identical. All of the affiants stated that the applicant resided in the United States from September 1981 to the present. None of the affiants provided any specific details regarding their acquaintance with the applicant or the basis for their claims. Although not required, none of the affidavits included any supporting documentation of the affiant's identity or presence in the United States. Given the absence of sufficient personal details, the affidavits provide minimal probative value.

The record contains a notarized declaration by [REDACTED], dated October 5, 2005. The affiant stated that she has known the applicant since December 10, 1982. The affiant stated that the applicant always spends Thanksgiving with her family. The affiant stated that her mother passed away in 1995, but she remained friends with the applicant. The affiant stated that the applicant

resided at [REDACTED] in Brooklyn, New York. The affiant provided her address of residence and telephone numbers. Although not required, the affidavit did not include any supporting documentation of the affiant's identity or presence in the United States.

The record contains an undated sworn affidavit of residence by [REDACTED]. The affiant stated that the applicant is her cousin. The affiant stated that the applicant lived with her from September 1981 to the present at [REDACTED] in Brooklyn, New York. The affiant also stated that the rent receipts and bills are in her name and the applicant contributes towards payment of the household bills. Although not required, the affidavit did not include any supporting documentation of the affiant's identity or presence in the United States. The affiant failed to provide any contemporaneous documentation to substantiate her claim, such as a lease agreement, rent receipts or bills.

The record contains numerous envelopes that have a United States postmark. While a few of the envelopes are postmarked during the statutory period, most of the postmarks are illegible. None of the envelopes place the applicant in the United States prior to January 1, 1982.

The record also contains two Form I-687s, Application for Status as a Temporary Resident, dated May 22, 1991, and April 18, 1994. In the NOID, the director noted discrepancies in the two Form I-687s. In the first Form I-687, dated May 22, 1991, the applicant indicated that she worked for Ames Employment Agency from November 1981 until the present. In the second Form I-687, dated April 18, 1994, the applicant indicated that she worked for [REDACTED] as a housekeeper from February 12, 1982, through October 15, 1982. The applicant did not list her employment for Ames Employment Agency.

The record contains another employment discrepancy. The record includes an undated notarized letter by [REDACTED]. The affiant stated that the applicant worked for her mother from April 1983 until her mother's death in September 1985. The affiant stated that the applicant worked from Sunday evening through Friday evening, cared for her mother, and performed her shopping, house cleaning and laundry. The applicant received a salary of \$200.00 per week. The affiant provided her address of residence. The applicant failed to indicate this employment in either of her Form I-687s.

On appeal, the applicant attempts to reconcile these discrepancies in her own affidavit, dated October 5, 2005. However, to meet her burden of proof, the applicant must provide evidence of eligibility apart from her own testimony. 8 C.F.R. § 245a.2(d)(6). The applicant has failed to provide any evidence apart from her own testimony.

The record also contains a sworn affidavit by [REDACTED] dated August 25, 1992. [REDACTED] stated that the applicant was in Toronto, Canada, from June 30, 1987 through July 5, 1987. The affiant stated that the applicant visited her girlfriend, [REDACTED]. The affiant provided her address of residence.

The record also contains a sworn affidavit by [REDACTED] dated May 17, 1991. The affiant stated that the applicant visited her from June 30, 1987, to July 5, 1987. The affiant stated that the applicant came from New York by car and returned to New York by car. The affiant also stated that she paid the applicant's boarding and lodging expenses. The affiant further stated that they had a very good time visiting old friends and sight seeing. The affiant provided her address of residence.

Finally, the record contains an undated notarized letter by [REDACTED]. [REDACTED] stated that she drove the applicant to Canada on June 30, 1987, and returned on July 5, 1987. However, during her April 13, 2004, interview, the applicant stated that she was driven to Canada by [REDACTED]. On appeal, the applicant attempts to explain this discrepancy by stating that both women drove her to Canada. The applicant did not provide any evidence apart from her own testimony.

There are major discrepancies in the record. 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. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). The record contains no independent objective evidence to explain the above inconsistency.

A few errors or minor discrepancies are not reason to question the credibility of an alien or an employer seeking immigration benefits. *See, e.g., Spencer Enterprises Inc. v. U.S.*, 345 F.3d 683, 694 (9<sup>th</sup> 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 applicant's assertions. As the applicant only submitted her own testimony to resolve the noted discrepancies, the absence of independent, objective evidence detracts from the credibility of the applicant.

Although the applicant has submitted numerous affidavits in support of her application, the statements of the applicant and her affiants contain several inconsistencies. In addition, applicant has not provided any contemporaneous evidence of entry into the United States before January 1, 1982, or sufficient evidence of continuous residence during the duration of the requisite period. As stated previously, the evidence must be evaluated not by the quantity of evidence alone but by its quality. The discrepancies in the record seriously detract from the credibility of applicant's claim. Pursuant to 8 C.F.R. § 245a.2(d)(5), the inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. Given the applicant's reliance upon documents with minimal probative values, as well as the discrepancies in the record, it is concluded that she has failed to establish continuous residence in an unlawful status in the United States during the requisite 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.