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U.S. Citizenship  
and Immigration  
Services

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FILE:

MSC 02 245 60861

Office: LOS ANGELES

Date: NOV 04 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. 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 Director, Los Angeles, California, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The director denied the application because the applicant failed to demonstrate that she entered the United States before January 1, 1982, and resided in a continuous unlawful status from then through May 4, 1988.

On appeal, the applicant submits a letter and resubmits documentation previously provided.

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 states 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 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.

Although the regulation at 8 C.F.R. § 245a.2(d)(3) provides an illustrative list of contemporaneous documents that an applicant may submit in support of his or her claim of continuous residence in the United States in an unlawful status since prior to January 1, 1982, the submission of any other relevant document is permitted pursuant to 8 C.F.R. § 245a.2(d)(3)(vi)(L). *See* 8 C.F.R. 245a.15(b). To meet his or her burden of proof, an applicant must provide evidence of eligibility apart from the applicant's own testimony. 8 C.F.R. § 245a.12(f). Affidavits indicating specific, personal knowledge of the applicant's whereabouts during the relevant time period are given greater weight than fill-in-the-blank affidavits providing generic information.

The applicant filed a Form I-485, Application to Register Permanent Resident or Adjust Status, under the LIFE Act on June 2, 2002.

In a Notice of Intent to Deny (NOID), dated December 14, 2006, the director determined that the applicant had failed to submit sufficient evidence demonstrating her continuous unlawful residence in the United States from prior to January 1, 1982, through May 4, 1988. In a Notice of Decision (NOD), dated January 18, 2007, the director denied the application based on the reasons stated in the NOID. The applicant filed the current appeal from the director's decision on February 21, 2007.

The issue in the proceeding is whether the applicant has submitted sufficient documentation to establish, by a preponderance of the evidence, that she entered the United States before January 1, 1982, and resided in a continuous unlawful status from then through May 4, 1988.

A review of the record reflects that the applicant has provided sufficient credible documentation to establish her unlawful presence in the United States from in or about September 1983 through May 4, 1988. However, there is insufficient evidence to establish that she maintained continuous unlawful residence in the United States from before January 1, 1982, through September 1983. With regard to the applicant's residence in the United States from prior to January 1, 1982, through August 1983, the applicant provided:

1. Photocopies of receipts issued to the applicant by [REDACTED] for \$400 cash payments of rent at [REDACTED] in October, November, and December 1981, and July 1982.
2. An affidavit, dated May 24, 1993, from [REDACTED], stating that he had known the applicant since October 15, 1981, when the applicant moved to live at [REDACTED], Los Angeles, California; that the applicant met her husband in 1983; and that the applicant had been living in the United States since 1981 and had children born in 1986 and 1984.
3. An affidavit, dated May 27, 1993, from [REDACTED] stating that she had known the applicant since October 15, 1981, when the applicant moved to live at [REDACTED] Los Angeles, California; that the applicant was her daughter's baby-sitter; and that

the applicant had been living in the United States since 1981 and had children born in 1986 and 1984.

4. An affidavit, dated June 4, 1993, from [REDACTED], stating that he employed the applicant from July 1982 to July 1983.
5. Un-translated documents in Spanish.<sup>1</sup>

The entries on the generic rent receipts in No. 1, above, are hand-written and there is no contact information for [REDACTED] included; therefore, they hold little probative value. Because the documents in No. 5 are not accompanied by the required English translations, they cannot be considered in the rendering of a decision in this matter. The employment letter from [REDACTED] in No. 4 does not comply with the regulation at 8 C.F.R. § 245a.2(d)(3)(i), and, as an acquaintance affidavit, provides no verification of the applicant's entry into the United States prior to January 1, 1982. With regard to her entry into the United States prior to January 1, 1982, the applicant has provided two third-party affidavits, Nos. 2 and 3, attesting to her presence in the United States since October 1981. These affiants are somewhat vague as to how they date their acquaintances with the applicant, how often and under what circumstances they had contact with the applicant throughout the requisite period, and lack details that would lend credibility to their claims of alleged 11-year plus relationships with the applicant wherein they had direct and personal knowledge of the events and circumstances of her continuous unlawful residence in the United States. As such, the statements can be afforded minimal weight as evidence of the applicant's residence and presence in the United States for the requisite period.

The absence of sufficiently detailed documentation to corroborate the applicant's claim of continuous residence for the entire requisite period detracts from the credibility of her 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.

It is concluded that the applicant has failed to demonstrate, by a preponderance of the evidence, that she resided in continuous unlawful status in the United States from before January 1, 1982, 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.

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<sup>1</sup> Any document containing a foreign language submitted to CIS must be accompanied by a full English language translation that the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English. 8 C.F.R. § 103.2(b)(3).