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FILE: MSC 02 204 64348

Office: LOS ANGELES Date:

**SEP 10 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:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. If your appeal was sustained, or if your case 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:** On October 3, 2006, the District Director, Los Angeles, denied the application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application, finding that the applicant did not establish, by a preponderance of the evidence, that she entered the United States before January 1, 1982, and resided continuously in the United States prior to January 1, 1982, and through May 4, 1988. The director noted that the applicant failed to submit evidence of her entry into the United States and that the only evidence of her continuous residence was in the form of affidavits. The director found that the affidavits submitted contained insufficient information and details, and that without corroborative evidence, failed to meet the applicant's burden of proof.

On appeal, the applicant submits a statement where she asserts that she entered the United States in January 1981 with her sister. She states that she initially attended school, but stopped going because of two girls who bullied her and beat her. She asserts that after that, she began watching her neighbors' children. She submits previously submitted documents.

An applicant for permanent resident status under section 1104 of the LIFE Act 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. See § 1104(c)(2)(B) of the LIFE Act and 8 C.F.R. § 245a.11(b). The applicant has the burden to establish by a preponderance of the evidence that he or she has resided in the United States for the requisite period, 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 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.

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 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.13(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 regulation at 8 C.F.R. § 245a.2(d)(3)(i) states that letters from employers attesting to an applicant's employment must: provide the applicant's address at the time of employment; identify the exact period of employment; show periods of layoff; state the applicant's duties; declare 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.

The issue in this proceeding is whether the applicant has furnished sufficient credible evidence to meet her burden of establishing by a preponderance of the evidence, that her claim of entry into the United States before January 1, 1982, and continuous residence in the United States during the requisite period is probably true. Upon examination of each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, the AAO finds that the applicant has failed to meet this burden.

The record reflects that on April 22, 2002, the applicant submitted a Form I-485, Application to Register Permanent Residence or Adjust Status. On August 18, 2006, the applicant appeared for an interview based on the application.

The record of proceeding contains the following evidence relating to the requisite period:

#### Letters and Affidavits

- A letter dated May 26, 1990, from [REDACTED], pastor at Saint Vincent de Paul Church in Los Angeles, California. Rev. [REDACTED] states that the applicant has been a parishioner for over seven years. He states that the applicant now resides at [REDACTED] and that he has seen and talked to the applicant after Sunday services in a "regular way" for the seven years that he has been at the church. He states that the applicant has lived at the same address for the past seven years, since 1983, and that she attends mass at this church every Sunday. This letter can be given little evidentiary weight as it conflicts with the two letters below, from two different pastors at Our Lady Queen of Angels Church;
- A letter dated June 4, 1990, from [REDACTED], pastor at Our Lady Queen of Angels Church, in Los Angeles, California stating that the applicant had been a member of the parish since 1981. Rev. [REDACTED] states that he obtained this

information from personal knowledge. Rev. [REDACTED] states that the applicant attends services in the church on a regular basis and contributes to the support of the church. He provides her current address but not the address where she resided during the statutory period. This letter can be given little evidentiary weight, as it conflicts with the letter below from [REDACTED] of the same church and the letter above from [REDACTED]. Rev. [REDACTED] states that the applicant was a member of the church until 1989, when she moved to Las Vegas, Nevada;

- A letter dated July 12, 1990, from [REDACTED], pastor at Our Lady Queen of Angels Church, in Los Angeles, California stating that the applicant was a member of the parish from 1981 through 1989 when she moved to Las Vegas, Nevada. Rev. [REDACTED] states that he obtained this information from personal knowledge. He states that the applicant attended services in the church on a regular basis and contributed to the support of the church. No evidentiary weight can be given to this letter as it conflicts with the two letters above. 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 petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Little weight can be given to these three church letters, as the applicant has not attempted to explain or reconcile the inconsistencies about which church she attended every Sunday during the statutory period;
- An affidavit of witness form sworn to on October 20, 2006, signed by [REDACTED] Ms. [REDACTED] states that she is godmother to the applicant's sister. Although she states that she knows for a fact that the applicant came in 1981, she fails to indicate any specific, personal knowledge of the applicant's travel to or entry into the United States or the circumstances regarding her move to the United States as a child. She states that the applicant tried to go to school, but a couple of girls that they did not know beat her up three times. She states that they decided to keep the applicant at home so that nothing worse would happen to her. Although she explains why the applicant was kept from school, she does not indicate when the applicant first enrolled in school and for how long she attended school. In addition, she does not mention whether the applicant was living with her or where the applicant was living from 1981 through the end of the statutory period;
- An affidavit of witness form sworn to on October 21, 2006, signed by [REDACTED] Ms. [REDACTED] states that she met the applicant through the applicant's sister. [REDACTED] states that the applicant would iron for her and that since 1981 she has never had a wrinkled blouse. Little if no weight can be given to this letter as it fails to provide sufficient details about the circumstances of the applicant's residence in the United States during the requisite period;

- Affidavits from five friends and relatives, [REDACTED] and [REDACTED], all dated in September 2006 and containing almost identical statements. All of the affiants claim to have known the applicant since her birth or since 1981. They all attest to her good moral character. They all provide the addresses where they lived and worked between 1981 or 1982 and 1989. Although they all state that they know the applicant came to the United States illegally in 1981 or before 1982 because the applicant told them so, none of them provides any information that would indicate actual personal knowledge of the applicant's 1981 entry to the United States. Although they all state that they know she has been living continuously since 1981 or before 1982 because they see her at family gatherings and holidays, they all provide minimal details about the applicant's places of residence and circumstances of her residence over the past 25 years. Lacking relevant details, these affidavits have minimal probative value;
- An additional five affidavits from friends and relatives, [REDACTED], and [REDACTED], all dated in March or April 2002, and all of which refer to the applicant's good moral character, that she is an asset to her community, and that she has never been arrested. [REDACTED] lists the names and dates of birth of the applicant's three U.S. citizen children. [REDACTED], the applicant's uncle, states that she spent some time at his house. Although all the affiants attest that they have known the applicant since 1981 and have remained close friends with her, none of them provides sufficient details about the applicant's places of residence and circumstances of her residence over the past 25 years. Again, although all of the affiants attest that the applicant told them she entered illegally near San Ysidro in 1981, none of them indicates that they have actual personal knowledge of her entry in 1981; and,
- Three affidavits from [REDACTED], the applicant's sister. The first, an "affidavit" form, is dated October 18, 1989. The form allows the affiant to fill in a statement that he or she has first hand knowledge of the applicant's "continuous residence in the United States since \_\_\_\_ because \_\_\_\_\_." [REDACTED] fills in 1981 and adds: "Because the Applicant lives in my home located at [REDACTED] Los Angeles, CA 90037, since Jan. 1981 to the present time." The second affidavit is an "Affidavit of Witness" form sworn to on May 29, 1990. The form indicates that the affiant has personal knowledge that the applicant resided in Los Angeles from January 1985 to December 1986. The form allows the affiant to fill in a statement that he or she "is able to determine the date of the beginning of his or her acquaintance with the applicant in the United States from the following fact(s): \_\_\_\_\_." [REDACTED] adds: "Because, the Applicant was the baby sitter of my daughter from 1985 to 1986 at [REDACTED], Los Angeles, CA 90037." The third affidavit is an "affidavit" form sworn to on May 29, 1990. [REDACTED] indicates that she resides at [REDACTED] Los Angeles, CA 90037. She states that the applicant has lived with her and was babysitting her child since she was

old enough at age 16 years, since 1985 to 1986. Although the applicant asserts that she entered the United States with her sister in January 1981, [REDACTED] never mentions the applicant's travel or 1981 entry, nor does she otherwise indicate that she has personal knowledge of the applicant's entry. Although the applicant states that she was unable to return to school after being beaten up and that her sister filed a complaint on her behalf, [REDACTED] does not mention these incidents and does not mention why the applicant, a child of 12 in 1981, was living with her, not attending school, and not residing with any her parents or any other adult relative. [REDACTED] mentions that the applicant began babysitting her child when she was old enough at age 16 in about 1985 or 1986, but does not provide any details about what the applicant did between 1981 and 1985 or 1986. Again, no documentation was submitted regarding the applicant's attendance at any school, albeit for a short time.

As noted above, to meet her burden of proof, the applicant must provide evidence of eligibility apart from her own testimony. In this case, her assertions regarding her entry prior to January 1, 1982 and residence through May 4, 1988, are supported only by affidavits, all of which have minimal probative value for the reasons described above. The applicant mentions that she attended school when she first arrived in the United States, but had to quit because she was getting beating up by two girls. She does not, however, submit school records as evidence of attendance at this school, nor does she submit any evidence from a responsible adult regarding the circumstance of her travel to and residence in California as a child or how she survived as a child until 1987. When viewed within the context of the totality of the evidence, such documentation is not sufficient to support a finding that it is more likely than not that the applicant resided continuously in the United States from before January 1, 1982, through May 4, 1988; nor does such documentation place the applicant in the United States prior to January 1, 1982.

As stated previously, the evidence must be evaluated not by the quantity of evidence alone but by its quality. Although not required, none of the affidavits included any supporting documentation of the affiant's presence in the United States during the requisite period. Furthermore, while the applicant has submitted numerous affidavits in support of her application, she has not provided any contemporaneous evidence of residence in the United States during the duration of the requisite period.

The record of proceedings contains other documents, including the applicant's marriage certificate indicating that she was married on September 15, 1990, in Los Angeles, California, and a California Driver's License, issued on September 12, 1988. All of this evidence is dated after the requisite period and does not address the applicant's qualifying residence or physical presence during the eligibility period in question, specifically from before January 1, 1982, through May 4, 1988.

The remaining evidence in the record is comprised of the applicant's statements and application forms, in which she claims to have first entered the United States on May 7, 1981, near San Isidro, California, and to have resided for the duration of the requisite period in California and Nevada. As noted above, to meet his or her burden of proof, the applicant must provide evidence of eligibility

apart from his or her own testimony. The applicant has failed to do so. In this case, her assertions regarding her entry are not supported by any credible evidence in the record.

The absence of credible and probative documentation to corroborate the applicant's claim of entry and continuous residence for the entire requisite period detracts from the credibility of her claim. 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. Given the applicant's reliance on only affidavits, which lack relevant details, and the lack of any probative evidence of her entry and residence in the United States from prior to January 1, 1982 and through May 4, 1988, the applicant has failed to establish by a preponderance of the evidence that she maintained continuous, unlawful residence in the United States as required for eligibility for adjustment to permanent resident status under section 1104(c)(2)(B)(i) 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.