U.S. Department of Homeland Security
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Washington, DC 20529

U.S. Citizenship and Immigration Services

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PUBLIC COPY

[redacted]

FILE: [redacted] Office: CHICAGO Date: JUN 02 2006

MSC 02 239 62203

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:

[redacted]

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. Any further inquiry must be made to that office.

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, Chicago, Illinois, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The district director denied the application because the applicant had not demonstrated that she had continuously resided in the United States in an unlawful status since before January 1, 1982 through May 4, 1988.

On appeal, counsel asserts that the director failed to consider all of the documentation submitted by the applicant, and that the evidence submitted established beyond a doubt that the applicant was present in the United States during the required period.

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. 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 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 (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).

The applicant stated in a February 28, 1990 sworn affidavit that she first unlawfully entered into the United States in October 1981. The applicant further stated that she had been outside of the United States only once during the qualifying period, and that was in 1987 for a period of less than one month.

In an attempt to establish continuous unlawful residence since before January 1, 1982 through May 4, 1988, the applicant provided the following evidence throughout the application process:

1. An August 15, 2001 sworn affidavit from [redacted] who stated that the applicant lived in Chicago and had visited him often since 1981 to present at religious gatherings that were held in his home once a month.

2. Two statements from [redacted] indicating that the applicant was his patient from 1982 through 1988.

3. A February 15, 1999 sworn affidavit from [redacted] who stated that the applicant lived with him from 1986 to 1988.

The applicant submitted numerous other affidavits, letters, and other documentation reflecting that she is an active and well-known member of the community. However, none of these letters of recommendation and attestation are probative of the applicant's presence and residency in the United States during the requisite period.

As discussed above, the adjudication of the applicant's claim is a measure of both the quantity *and* quality of the evidence submitted. *See* 8 C.F.R. § 245a.12(e). The applicant has submitted two affidavits of residency. While affidavits in certain cases can effectively meet the preponderance of evidence standard, the applicant has submitted minimum documentation and no contemporaneous evidence to support her claim. Further, we note that a Form I-140, Immigrant Petition for [redacted] filed on behalf of the applicant on November 8, 1997, and which is housed in the record that contains the current application, indicates that the applicant received a diploma in home science in Bombay, India, having attended classes from January to December 1983. 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. at 591. Additionally, although claiming some employment during the requisite period, the applicant submitted no evidence of such employment.

Given the absence of any contemporaneous documentation and the minimum evidence presented and the conflicting evidence of record, it is concluded that the applicant has failed to establish continuous residence in the U.S. for the required period.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.