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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: LOS ANGELES Date: MAY 23 2006

MSC 02 235 60332

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:

SELF-REPRESENTED

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, Los Angeles, California, 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, the applicant states that the questions asked of her at her interview were unclear and confusing, and that neither she nor her sister, who acted as her translator, could determine to whom the questions were directed. On appeal, the applicant submitted copies of previously submitted documentation. The applicant indicated on the Form I-290B that a brief and/or additional evidence would be submitted within 30 days. As of the date of this decision, however, more than 23 months after the appeal was filed, no further documentation has been received by the AAO. Therefore, the record will be considered complete as presently constituted.

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).

On her Form I-687, Application for Status as a Temporary Resident, signed on August 23, 1990, the applicant stated that she first entered the United States on December 19, 1981.

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. Envelopes addressed to the applicant in California, bearing canceled postmarks in 1982, 1983, 1984, 1986, 1987 and 1988.

2. An August 18, 1990 sworn letter from [redacted] "verifying" that the applicant worked for her as a housekeeper and babysitter from 1980 to 1984. The affiant does not specify the address where this work took place, and the applicant submitted no evidence that the affiant resided in the United States during the stated time frame. Further, the affiant's statement that the applicant worked for her from 1980 is inconsistent with the applicant's statement that she first arrived in the United States in December of 1981. The applicant submitted no evidence to resolve this inconsistency. 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. 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. 582, 591 (BIA 1988).

3. A sworn affidavit from the applicant's sister, [redacted] certifying that the applicant lived with her at her address of [redacted] Wilmington, California from December 15, 1981 to 1986, after which, the applicant lived at an apartment that she rented at [redacted] in Wilmington. We note that the affiant states that the applicant lived with her four days before she allegedly arrived in the United States. *Id.*

4. An August 18, 1990 sworn statement from [redacted] who stated that he first met the applicant in Mexico and again on December 19, 1981 in the United States. The affiant declared that the applicant has been living in the United States since 1982.

5. An August 23, 1990 sworn statement from [redacted] who certified that as a church assistant, she "passed through" [redacted] in Wilmington, where she met the applicant and invited her to religious services. The affiant further stated that she had been visiting the applicant since February 20, 1982. However, the affiant's statement conflicts with other statements in the record, including the applicant's, who stated that, from 1981 to 1986, she lived at [redacted]. *See Matter of Ho.*

6. An August 18, 1990 sworn statement from "verifying" that the applicant worked as his babysitter from September 1984 to 19

7. Copies of money orders dated September 13, 1984. The money orders were payable to one of the applicant's sisters, and appears to have been purchased and sent by the applicant and another of her sisters, [redacted] However, the applicant's name is shown to the side, and raises questions as to the reason for its addition to the money orders.

8. A copy of a money order dated May 20, 1985 purchased from the Westco Savings Bank, and showing the applicant as the sender with an address of [redacted] A PS Form 2865, although completed with the applicant's name and the [redacted] address, is not stamp dated by the post office.

9. An October 1, 1986 rental application that is not signed by the applicant.

10. Copies of rental receipts dated October and December 1986, and September 1987. Another receipt does not show a date, although it indicates that it is for the period January to February.

11. A copy of an October 12, 1987 dental appointment card for a dentist in Wilmington, California.

During her adjustment interview under the LIFE Act, the applicant stated that she first entered the United States in July 1982, when she was about 31 years of age, when her youngest daughter was about a year old. The record reflects that the applicant was born in 1951 and, according to the applicant's Form I-485, Application to Register Permanent Residence or Adjust Status, her youngest daughter was born on September 21, 1981.

Additionally, the applicant's sister, [redacted] who accompanied the applicant to her interview as her interpreter, stated that she could not have sent a February 1982 envelope, which shows her as the addressee in Mexico, as she was in the United States at that time, pregnant with her daughter.

Given the unexplained inconsistencies and contradictions in the record, the applicant has failed to establish having resided in continuous unlawful status in the United States from prior to January 1, 1982 through May 4, 1988, 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 on this basis as well.

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