

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



W2

FILE: [REDACTED]
MSC 02 043 65747

Office: LOS ANGELES

Date: **JAN 04 2007**

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 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 her Form I-687, Application for Status as a Temporary Resident, was completed by "an individual who called herself" an attorney, and that certain information on the application was "incorrectly stated." The applicant submits a statement and copies of previously submitted documentation in support of her appeal.

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. Section 1104(c)(2)(B) of the LIFE Act; 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 a form to determine class membership, the applicant stated that she first entered the United States on April 22, 1981. On her Form I-687 application, the applicant stated that she lived at the following addresses during the qualifying period: from July 1981 to January 1983 – [REDACTED] in Inglewood, California; from January 1983 to November 1986 – [REDACTED] Los Angeles, California; and from December 1986 to October 1988 – [REDACTED] in Los Angeles. The applicant also stated that she cleaned [REDACTED]

house for [REDACTED] from July 1981 to January 1983, and was a housekeeper from January 1983 until the date of the Form I-687 application (October 12, 1990).

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

1. A May 25, 1990 sworn letter from [REDACTED] in which he verified that the applicant worked for him from July 1981 to January 1983. Mr. [REDACTED] did not indicate the applicant's address at the time of her employment. *See* 8 C.F.R. § 245a.2(d)(3)(i).
2. A copy of a birth certificate showing that the applicant gave birth to a child on September 25, 1985 at the USC Medical Center in Los Angeles, California, and a copy of a September 26, 1985 letter from the hospital confirming the birth.
3. A copy of a birth certificate showing that the applicant gave birth to a child on May 24, 1987 at the USC Medical Center in Los Angeles, California, and a copy of a May 25, 1987 letter from the hospital confirming the birth.
4. A copy of the applicant's child's California immunization record with entries in July and November 1987 and May 4, 1988.
5. Money order receipts dated May 11, 1981; February 13, 1982; May 15, 1982; August 5, 1983; September 10, 1983; August 14, 1984; May 11, 1985; May 2, 1987; and July 10, 1987. The director noted that most of the receipts listed [REDACTED] as the payee and that the address on the May 11, 1981 receipt is listed as [REDACTED]. The record indicates that the payments to Mr. [REDACTED] were rental payments. However, the applicant did not claim to have lived at [REDACTED] until December 1986. The director further noted that the July 10, 1987 receipt is dated during a period when the applicant claimed to have been in Mexico. (The applicant stated on her Form I-687 application that she was absent from the United States from July 7, 1987 until July 28, 1987 for an emergency.) 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).

In a Notice of Intent to Deny (NOID) dated September 1, 2004, the director informed the applicant that the money order receipts were inconsistent and conflicted with statements on her Form I-687 application. In response, the applicant submitted a September 29, 2004 sworn statement from [REDACTED] in which he stated that he met the applicant in 1981 when she lived at [REDACTED] in Los Angeles, California, while visiting friends who lived in the same building. Mr. [REDACTED] stated that the applicant lived at that address until 1988. Mr. [REDACTED] letter, without more, is not objective and competent evidence that resolves the issue of the applicant's residency. *See id.*

On appeal, the applicant states that she lived at the following addresses during the qualifying period: July 1981 to August 1986 [REDACTED] Los Angeles; August 1986 to October 1986 - [REDACTED] Los Angeles; an [REDACTED] November 1986-October 1988 - back at [REDACTED] Los Angeles. This statement conflicts with a copy of a rental receipt indicating that the applicant paid rent for a unit at 2653 Cochran Avenue for the period October 18 through November 18, 1986. The

applicant submitted no documentary evidence such as a rental agreement, utility bills or similar documentation confirming her residency at these addresses during the stated time frames. *Id.*

6. A copy of an “Acta de Dedicación” for the applicant’s son issued in Culver City on December 7, 1985.
7. A copy of an October 1986 rental receipt for [REDACTED]. The receipt does not indicate the day the receipt was issued; however, it indicates that it is for the period from October 18 to November 18, 1986.
8. A February 1987 gas bill receipt for the period January 2 to February 3, 1987 for [REDACTED] in Los Angeles.
9. A copy of a January 15, 1988 rental receipt for an apartment at [REDACTED] for the period January 1, 1988 to February 1, 1988.

On appeal, the applicant asserts that CIS did not attempt to verify the information provided by Mr. [REDACTED] which was approximately 14 years earlier; however, the applicant submitted no additional or updated information from Mr. [REDACTED] and submitted no other information to verify her employment during the required time frame. While the record contains sufficient evidence to establish that the applicant resided in the United States from 1985, the applicant provided conflicting information regarding her residency prior to that date. The applicant submitted no competent contemporaneous documentation to verify her presence and residency in the United States for that time frame.

Accordingly, 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.