U.S. Department of Homeland Security
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U.S. Citizenship and Immigration Services

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[redacted]

FILE: [redacted] Office: LOS ANGELES Date: SEP 02 2008
MSC 03 227 60484

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. 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 August 10, 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 determined that the applicant failed to meet her burden of proof to establish that she first entered the United States before January 1, 1982, and resided continuously in the United States in an unlawful status since that date through May 4, 1988. In a June 28, 2006, Notice of Intent to Deny (NOID), the director found inconsistencies between the applicant's oral testimony and applications and other evidence in the record. The director referred specifically to an affidavit from the applicant's former spouse and noted a discrepancy between the applicant's oral testimony during her interview and an affidavit from a former employer named [redacted]. The director noted inconsistencies between a sworn statement signed by the applicant and information provided by her former spouse in his affidavit. The director also found that the applicant had not submitted sufficient credible documentation of entry to the United States as a foundation on which affidavits alone could stand as evidence of continuous residence. Finally, the director found that the applicant failed to provide documentation from a governmental or non-governmental authority to establish her physical presence between November 6, 1986, through May 4, 1988.

On appeal, the applicant asserts that she has submitted all evidence and documents that prove that she has been here the amount of time required. She states that she is unable to provide more documents because she possesses no additional evidence. In response to the NOID, the applicant asserted that she had submitted affidavits to establish that she had been in the United States during the requisite time period. She attempted to explain the inconsistencies the director referred to and asserted her former husband assisted her, but did not fully support her and that is why she submitted credible evidence of what she actually did during those years. She asserted that [redacted] did not mention that the applicant took care of her children, because the applicant had only asked [redacted] to provide her with an affidavit stating that she knew the applicant and did not tell [redacted] what needed to be written on the affidavit.

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 that 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 record reflects than on May 15, 2003, the applicant submitted a Form I-485, Application to Register Permanent Residence or Adjust Status. On May 31, 2006, the applicant appeared for an interview based on the application.

In the June 28, 2006, NOID, the director noted that an affidavit from the applicant's former spouse stated that he fully supported the applicant from 1980 to 1989 and that she resided with him during that time. In her interview, the applicant stated that she worked for a woman named [redacted] who she met in a park in 1981. In her affidavit, [redacted] mentions that she met the applicant in the park in 1981, but fails to mention that the applicant cared for her children. The director also noted that, on the one hand, on August 26, 1992, the applicant signed a sworn statement indicating that her former brother-in-law, [redacted], provided the applicant with the receipts for her to use in this application. On the other hand, her former spouse stated that he fully supported the applicant during the dates listed in the receipts. Finally, the director found that the applicant failed to provide documentation from a governmental or non-governmental authority to establish her physical presence between November 6, 1986, through May 4, 1988.

In response to the NOID, the applicant submitted no additional documentation, but asserted that she had submitted affidavits to establish that she had been in the United States during the requisite time period. The applicant stated that the NOID said that she used rent receipts from her ex-husband in which it states that he fully supported her. She asserts that he assisted her, but did not fully support her and that is why she submitted credible evidence of what she actually did during those years. She asserts that [redacted] did not mention that the applicant took care of her children, because the applicant asked [redacted] to provide her with an affidavit stating that she knew the applicant. She states that she did not tell [redacted] what needed to be written on the affidavit.

On appeal, the applicant asserts that she has submitted all evidence and documents that prove that she has been here the amount of time required. She states that she is unable to provide more documents because she possesses no additional evidence. She asserts that she has been in this country for more than 10 years and has been a law-abiding individual. She states that she has paid her taxes and never depended on public assistance.

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 applicant has provided the following evidence relating to the requisite period:

Letters and Affidavits

- A "Letter of Witness" dated May 26, 2006, from [redacted]. Ms. [redacted] states that she has known the applicant from about 1982 to the present. She states that the applicant has been a very good friend, that she has always been involved in the church, and is a very honest person. The letter lacks minimal details regarding how the affiant became acquainted with the applicant. The affiant does not claim any personal knowledge of the applicant's initial entry into the United States and provides no information that would indicate personal knowledge of the applicant's places of residence or the circumstances of her residence over the 24 years of their claimed relationship. Lacking relevant details, this letter has minimal probative value;

- A "Letter of Testimony" dated May 23, 2006, from [redacted]. Ms. [redacted] states that she has known the applicant since 1982, and that they met through a mutual friend, who recommended the applicant as a babysitter. states that the applicant took care of her minor son, who was one and half years old at the time. She states that the applicant has been a good friend ever since and that she has seen the applicant grow in this country and that she has proven to be a person of good moral character. Again, the affiant does not claim any personal knowledge of the applicant's

initial entry into the United States. [redacted] states that the applicant babysat for her child, but does not indicate for how long, how often, and provides little information that would indicate personal knowledge of the applicant's places of residence or the circumstances of her residence over the 24 years of their claimed relationship. Given this lack of detail, the letter can be given minimal weight as evidence of the applicant's continuous residence or physical presence in the United States during the requisite period;

- An "Affidavit of Witness" form sworn to on February 23, 1996. The form, signed by [redacted] indicates that the affiant has personal knowledge that the applicant resided in Cudahy, California from December 1981 to the present. 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] added: "I met the applicant at the park, I took children to the park when I me e applicant back in Dec/1981, since then we have always kept a good, close and friendly relationship, I have seen and visited the applicant at least once a week since I met her and I know she has been present in the US to date." This affidavit, prepared on a fill-in-the-blank form, contains minimal details regarding a relationship with the applicant during the requisite period. [redacted] states that she saw and visited the applicant at least once a week since she met her in 1981, but does not provide any details about where they meet or under what circumstances. She also fails to provide addresses where the applicant has lived during the course of their relationship. She indicates that the applicant lived in Cudahy, California, but does not provide a street address. In addition, this information is inconsistent with information provided on the applicant's Form I-687, Application for Status as a Temporary Resident, where the applicant listed her residence as Huntington Park, California, from November 1980 to April 1987. [redacted] fails to indicate any personal knowledge of the applicant's claimed entry to the United States and provides few details of the circumstances of her residence over the 15 years of their claimed relationship;

- An "Affidavit of Witness" form sworn to on February 17, 1996. The form, signed by [redacted], is almost identical to the form submitted by [redacted]. Here, Ms. [redacted] indicates that she has personal knowledge that the applicant resided in Huntington Park, California from November 1980 to the present. She filled in the statement that she is able to determine the date of the beginning of her acquaintance with the applicant in the United States from the following fact(s) by adding: "I met the applicant at school back in November 1980 and since then we have always maintained a good, close and friendly relationship. I have seen the applicant and visited her at least once a week all throughout said time and I know she has always been present in the United States to date." This affidavit, prepared on a fill-in-the-blank form, contains minimal details regarding a relationship with the applicant during the requisite period. Although the address provided by [redacted] is consistent with information provided on the applicant's Form I-687, Application for Status as a Temporary Resident, [redacted] fails

to indicate any personal knowledge of the applicant's claimed entry to the United States and provides few details of the circumstances of her residence over the 16 years of their claimed relationship. [redacted]s states that she has maintained a close friendship with the applicant and has seen or visited the applicant a least once a week since November 1990, but fails to provide details about where or under what circumstances these meetings occur. Lacking relevant details, this affidavit can be given minimal weight as evidence of the applicant's continuous residence during the requisite period;

- An "Affidavit of Witness" form sworn to on February 24, 1996. The form, signed by [redacted] indicates that the affiant has personal knowledge that the applicant resided in Huntington Park, California, from December 1985 to April 1989. Ms. [redacted] added: "I met the applicant when she came to live at the apartment I managed in Huntington Park, back in Dec/1985. She stayed there until April/1989 and all that time I saw the applicant at the apartments on a daily basis. I know that she was present in the US all during that period." Although the city of residence provided is consistent with information provided on the applicant's Form I-687, [redacted] fails to provide the street address of the apartments she managed and where the applicant resided. As the manager of the apartments, [redacted] fails to submit corroborating evidence of the applicant's residence at these apartments, such as a lease or rent receipts, or in the alternative, an explanation of the payment arrangements that existed for the applicant. Lacking such relevant detail, the affidavit can be afforded only minimal weight as evidence of the applicant's residence in the United States for the requisite period;

- An "Affidavit of Witness" form sworn to on February 24, 1996. The form, signed by [redacted], indicates that the affiant has personal knowledge that the applicant resided in Huntington Park, California, from November 1980 to November 1985. Mr. [redacted] adds: "I met the applicant when she came to reside at the apartments I managed in Huntington Park, back in Dec/1980. She stayed there until November/1985 and all that time I saw the applicant at that address on a daily basis. I know that she was present in the US all during that time." Much like the information provided by Ms. [redacted] fails to provide the street address of the apartments he managed and where the applicant resided for five years. As the manager of the apartments, [redacted] fails to submit corroborating evidence of the applicant's residence at these apartments, such as a lease or rent receipts, or in the alternative, an explanation of the payment arrangements that existed for the applicant;

- An "Affidavit of Witness" form sworn to on September 24, 1990. The form, signed by [redacted], is the same form used by [redacted]s and [redacted] On it, Mr. [redacted] indicates that he has personal knowledge that the applicant resided in Huntington Park, California from November 1980 to the October 1989. In the space for determining the date of the beginning of his acquaintance with the applicant in the United States, Mr. [redacted] added: "the applicant is my wife and I fully supported her from November 1980 throughout Oct. – 1989, all during said time the applicant resided with me at my place of

residence and I saw her at my house on a daily basis. I know she was present in the US all during said time." Although the city of residence provided is consistent with information provided on the applicant's Form I-687, [redacted] provides minimal details regarding their residence together or their marriage. Furthermore, [redacted] fails to indicate any knowledge of the applicant's travel to or entry into the United States. This affidavit can be given little weight as evidence of the applicant's entry prior to January 1, 1982, and of her continuous residence since before that date through May 4, 1988;

- An "Affidavit" form sworn to on June 26, 1990. The form, almost identical to the "Affidavit of Witness" forms mentioned above, is signed by [redacted] Mr. [redacted] indicates that he has personal knowledge that the applicant resided in Huntington Park, California, from November 1980 to present. He adds: "The applicant is my sister-in-law and she came to reside at my house when she came to the United States back in November 1980. Since then I have seen the applicant at my house on a daily basis and I know that she has been present in the US uninterruptedly to date." [redacted] fails to provide the address of the house where the applicant lived. He fails to indicate any personal knowledge regarding her entry into the United States. He provides few details of the circumstances of the applicant's residence in his house over the 10 years of their relationship;

- An affidavit sworn to on November 20, 1990, from [redacted] Mr. [redacted] states that "on November 25, 1987, I gave [redacted] a ride to Tijuana, BC, Mexico and that on December 23, 1987, I was informed by the applicant that she had returned to the US on her own and Without Inpection and I saw the applicant in the US on said date." ; and,

- A form dated June 12, 1990, signed by [redacted], DDS. states that the applicant has been his patient since 1981, and that she went to his clinic for a general cleaning. He states that the information was obtained through company records and that she is still his client. The credibility of this affidavit is questionable as it is written in a professional capacity but is not written on company letterhead. In addition, [redacted] states that the information he provided came from company records, but does not mention which company records and does not submit photocopies of these records.

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 in 1982 and 1983 are supported only by affidavits, all of which have minimal probative value for the reasons described above. [redacted] mentions that she and the applicant met in school in November 1980, but the applicant does not submit school records as evidence of attendance at this school. When viewed within the context of the totality of the evidence, such documentation does not place the applicant in the United States prior to January 1, 1982, nor is it sufficient to support a finding that it is more likely than not that the applicant resided continuously in the United States from prior to

January 1, 1982, through May 4, 1988. The duplicative language, use of forms and the failure to meet statutory standards also detract from the probative value of the affidavits.

The record of proceedings contains other documents, including the applicant's divorce decree, filed on March 10, 2006, in Los Angeles Superior Court, and evidence relating to the applicant's U.S. citizen children. This evidence is all dated after May 4, 1988, 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 in November 1980, near San Isidro, California, and to have resided for the duration of the requisite period in California. 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 sufficiently supported by the evidence in the record.

Having examined each piece of evidence, both individually and within the context of the totality of the evidence, the AAO finds that the applicant has not shown by a preponderance of the evidence she entered into the United States before January 1, 1982, and that she resided continuously in an unlawful status for the requisite period.

The absence of sufficiently detailed 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 affidavits alone, 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 for the years 1982 and 1983, 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.