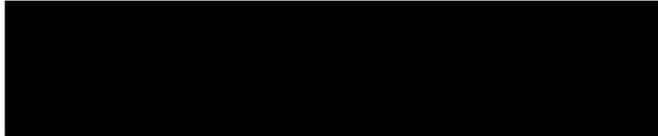




U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
MSC 02 170 60225

Office: LOS ANGELES

Date: AUG 14 2006

IN RE: Applicant: [REDACTED]

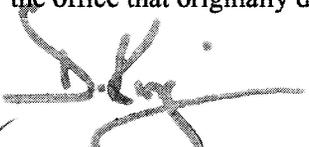
APPLICATION: Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), amended by Life Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000)

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 she has submitted evidence to prove that she resided in the United States since 1981. The applicant submits one additional document 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(2)(c)(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).

The applicant alleges that she first entered the United States on January 15, 1981 when she crossed the border into California without a visa.

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 February 5, 2004 sworn statement from [REDACTED] in which she stated that the applicant lived with her at her residence from January 1981 to June 1987.
2. A March 8, 2004 sworn statement from [REDACTED] in which she stated that the applicant worked for her from 1984 to 1987 in her design firm. [REDACTED] stated that the applicant worked as a finisher/quality control, and that the employment was seasonal, sometimes part-time and at others full-time. This conflicts with the applicant's statement on the Form I-687, Application for Status as a Temporary Resident, which she signed on July 17, 1990. On the Form I-687 application, the applicant stated that she worked as a self-employed babysitter from 1981 to 1989. 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). Ms. [REDACTED] also executed an August 3, 2004 statement in which she stated that she has known the applicant since 1982 as a friend and business associate. [REDACTED] offered no specifics regarding her first association with the applicant.
3. A September 6, 2001 letter from Pastor [REDACTED] of the Interdenominaciona Ministerios Asociados [REDACTED] in which he stated that the applicant had been a member of the church since February 1982. The letter did not include information about the applicant's residency during her period of membership and did not indicate the source of the information pertaining to the applicant's membership. See 8 C.F.R. § 245a.2(d)(3)(v).
4. An August 3, 1990 sworn statement from [REDACTED] in which he stated that the applicant worked as his housekeeper from November 1981 to March 1984.
5. A July 14, 1990 sworn statement from [REDACTED] in which she stated that she has known the applicant since January 1981, that the applicant went to Mexico in November 1987, and that Ms. [REDACTED] personally took her to the bus station in Tijuana Mexico. [REDACTED] did not indicate that she knew the applicant in the United States or that the applicant was present and living in the United States during the qualifying period.
6. An August 3, 2004 notarized statement from [REDACTED] in which he stated that he has known the applicant as a friend since 1982.
7. An August 3, 2004 notarized statement from [REDACTED], in which she stated that she has known the applicant since 1982 as a friend and business associate. [REDACTED] did not state the nature of her business association with the applicant.
8. An August 3, 2004 notarized statement from [REDACTED], in which he stated that he has known the applicant as a friend and business associate since 1982. [REDACTED] did not state the nature of his business association with the applicant.
9. An August 3, 2004 notarized affidavit from [REDACTED] in which he stated that he has known the applicant since 1982, when he met her at a family party.

In this instance, the applicant has submitted nine affidavits and third-party statements attesting to her continuous residence in the U.S. during the period in question. While affidavits in certain cases can effectively meet the preponderance of evidence standard, the affidavits and statements in the instant case lack the specificity and

indicia of truthfulness that would establish that the applicant, more likely than not, resided in the United States during the requisite time frame. We note that [REDACTED] stated that the applicant worked for her for three years as a finisher and quality control person. However, the applicant failed to include this employment on her Form I-687 application. Further, while the applicant stated that she worked as a babysitter throughout the qualifying period, she submitted only one statement in an attempt to verify her employment from 1981 to 1983 and no evidence of her work as a babysitter thereafter.

Additionally, the record reflects that the applicant stated on a Form I-589, Application for Asylum and for Withholding of Deportation, that she signed on October 23, 1996, that she entered the United States in June 1989, that she had been a member of a dissonant political party for the past two years and, as a result, her life was in danger if she returned to Mexico. We note that the applicant's asylum application was disapproved, and she was ordered deported in absentia on March 25, 1997. A warrant of removal was issued on May 24, 1997.

Given the absence of any contemporaneous documentation and the unresolved inconsistencies in the record, it is concluded that he has failed to establish continuous residence in the U.S. for the required period. Accordingly, the applicant is ineligible for permanent residence under section 1104 of the LIFE Act.

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