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U.S. Citizenship
and Immigration
Services

[REDACTED]

L2

FILE: [REDACTED]
MSC 02 003 60622

Office: CHICAGO

Date:

JUL 27 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:

[REDACTED]

PUBLIC COPY

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, the applicant states that the director's reasons for denial of her application "are merely conclusion of law and are not based on the factual evidence" submitted. The petitioner submits additional documentation on appeal. Counsel indicated on the Form I-290B, Notice of Appeal to the Administrative Appeals Unit, that a brief and/or additional evidence would be submitted within 30 days of the appeal. As of the date of this decision, however, more than 20 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. 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 claims to have entered the United States without inspection at Buffalo, New York on October 18, 1981. On her Form I-687, Application for Status as a Temporary Resident, which she signed under penalty of

perjury on May 16, 1990, the applicant admitted to a single absence, from November to December 1987, when she returned to Pakistan upon the death of her father-in-law.

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 15, 1990 sworn statement from [REDACTED] in which he stated that he has known the applicant since 1981, and that she left the United States in November 1987 and returned in December 1987. [REDACTED] provided no specific details of his initial acquaintance with the applicant, but states that she is his friend. [REDACTED] apparently executed this statement again on January 13, 1992, thus reaffirming the information contained within it.
2. A January 16, 1993 sworn affidavit from [REDACTED] who stated that she is a friend of the applicant's and that she has know the applicant since 1981. [REDACTED] also attested to the applicant's absence from November to December 1987. However, [REDACTED] provides no details of her initial acquaintance with the applicant.
3. A January 16, 1992 sworn affidavit from [REDACTED] in which he stated that he has known the applicant since 1981. As with the statements of [REDACTED] and [REDACTED] the affiant provided no details of his initial acquaintance with the applicant. We note that [REDACTED] lists his address as [REDACTED] the address at which the applicant allegedly lived from 1981 through the date of her Form I-687 application, and shows the applicant's address as [REDACTED]
4. An October 15, 1986 letter from [REDACTED] who stated that he was the properties manager of the Dunkin' Donuts at [REDACTED]. The letter stated that the applicant worked at the restaurant from November 28, 1981 to November 28, 1986. However, on January 14, 1992, during a verification interview, [REDACTED] denied knowing the applicant.
5. An April 19, 1986 letter from the Salvation Army, purportedly signed by [REDACTED] thanking the applicant and her husband for "the doughnuts which you have been donating and delivering to the Salvation army for many years, from July 1981 up until now." We note that the signature on Mr. [REDACTED] letter is substantially different from that which appears on an April 19, 1993 letter to the applicant and her husband, covering the same subject matter. The 1986 letter is addressed to the applicant and her husband at [REDACTED]. The applicant indicated on her Form I-687 application that she lived at [REDACTED] until the date of the application on May 16, 1990. We note that the applicant listed her mailing address, which was different from her home address, as [REDACTED]. 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).
6. An April 15, 1982 Certificate of Completion issued to the applicant by the "School District U-46 Adult Exucation [sic] Program." The certificate does not indicate a city or state or any other affiliation with a school within the United States.
7. A copy of a November 2, 1983 Detroit Medical Center Logistics Management Supply Depot Requisition for a Nebulizer. The applicant is identified as the person making the request for Sinai-Grace Hospital.

8. A copy of a February 5, 1984 "Physician Orders," indicating that the applicant was treated at Health Care Solutions Comprehensive Home Respiratory Services. The address listed on the orders is [REDACTED]. The orders reflect that the applicant had an injury or condition that impaired her right leg and required a "crutch platform attachment." The applicant does not claim to have resided in Michigan at any time and offers no explanation for this medical event.
9. An August 6, 1998 statement from [REDACTED] who identified herself as the owner of Hill Real Estate Management, Inc. [REDACTED] stated that the applicant had resided at [REDACTED] since April 16, 1986. We note that the applicant did not claim Dupage Street as her residential address, but indicated on the Form I-687 that her mailing address was [REDACTED]. See *Matter of Ho*, 19 I&N Dec. at 591-92.
10. A copy of a March 6, 1987 tax receipt from the Cancer Federation, Inc. for the Chicago suburbs and Lake County. The applicant and her husband are listed as donors with an address at [REDACTED] in Elgin.

In response to the director's Notice of Intent to Deny (NOID) dated September 8, 2004, the applicant submitted the following documentation:

1. A November 24, 2004 notarized statement from [REDACTED] who stated that she has known the applicant since 1981, and that the applicant helped her with the cleaning and care of her child. The applicant submitted copies of checks signed by Mrs. [REDACTED] and made payable to the applicant, dated December 21, 1981, May 5, 1982, October 10, 1982, and January 7, 1983. We note that none of these checks reflect that they were presented to the bank for payment.
2. Rental receipts signed by [REDACTED] dated January 10, 1982 and June 11, 1983, purportedly covering rental periods from January 10 to February 9, 1982, and June 10 to July 9, 1983, respectively. An attached rental agreement, "made" on January 8, 1982 and labeled [REDACTED] shows a rental period from January 10, 1982 to January 9, 1983 for an apartment address at [REDACTED]. The date that the agreement was allegedly signed, however, is August 1, 1982.
3. An April 10, 1989 letter from [REDACTED] manager of the Dunkin' Donuts at [REDACTED]. The letter stated that the applicant had worked at the restaurant as a cashier since May 13, 1982. This conflicts with the applicant's statement on the Form I-687 application in which she stated that she worked at the Dunkin' Donuts on Dundee Avenue from November 1981 to November 1986. Doubt cast on any aspect of the applicant's proof may 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.
4. A September 24, 2004 notarized statement from [REDACTED] in which she stated that she has been a friend of the applicant's since 1982. [REDACTED] did not provide specific details of the circumstances by which she became acquainted with the applicant.
5. A July 9, 1983 receipt from [REDACTED] in Elgin, Illinois, reflecting that the applicant paid cash for bedroom and sofa furniture.

6. A November 12, 1983 letter from Spates Temple Church of God In Christ, signed by the "head secretary," thanking the applicant for her donation of doughnuts and clothes. The letter is addressed to the applicant at [REDACTED]
7. A September 1, 1985 receipt from World Import in Chicago, indicating that the applicant paid cash for a television set.
8. A copy of a March 8, 1985 Certificate of Completion from Elgin Community College indicating that the applicant completed an "Alternatives Job Readiness & Career planning Workshop."
9. An April 6, 1985 letter from the assistant director of the Community Crisis Center, thanking the applicant and her husband for donating doughnuts to the center. The letter was addressed to the applicant at [REDACTED]
10. A copy of a December 3, 1986 check drawn on TCF Bank and payable to Hill Real Estate, indicating that it was for December's rent. The address reflected on the check is [REDACTED]. The applicant also submitted a copy of an April 19, 1990 "account verification" statement from TCF Bank, reflecting that the applicant opened a checking account with the bank on December 1, 1985. The address on the verification statement also reflects the [REDACTED] address. However, the applicant stated that she lived at [REDACTED] from 1981 until at least May 16, 1990, the date she signed the Form I-687 application.
11. Copies of newspapers dated in 1984, 1985 and 1986. Although the applicant signed these newspapers, they do not contain articles of the applicant or reference her in any way. It is unclear from the content of the newspapers why the applicant may have kept those particular editions as mementos. The newspapers contain no indicia that they belonged to the applicant and do not establish her presence or residency in the United States during the required period.

On appeal, the applicant submitted the following documentation:

1. A November 6, 2004 sworn statement from [REDACTED] who stated that the applicant was a co-worker at Dunkin' Donuts in Hanover Park, and that he has known the applicant since 1982. We note that the applicant stated on her Form I-687 application that she worked at the Dunkin' Donuts in Hanover Park from December 1986 to October 1988. [REDACTED] did not indicate how he became acquainted with the applicant in 1982.
2. A November 5, 2005 sworn statement from [REDACTED] in which he stated that he has known the applicant since 1982, and that he met her through his work at the Salvation Army in Elgin, when the applicant donated doughnuts to the organization.
3. A November 10, 2004 sworn affidavit from [REDACTED] who stated that she knew the applicant through work and that the applicant "did Community work & volunteered her services for me and my family." [REDACTED] did not indicate the nature of the work that began her acquaintance with the applicant. We note that copies of checks submitted in response to the NOID purportedly show that the Dermas paid the applicant for her services.
4. An October 29, 2004 letter from [REDACTED] in which he stated that he knew the applicant as a neighbor on [REDACTED] in Hanover Park, Illinois from 1982 to 1983. The applicant stated on her Form I-687

application that she lived on [REDACTED] Street in Hanover Park in from 1981 until the date of her application on May 16, 1990.

The applicant has failed to resolve any of the inconsistencies and contradictions in the record. Furthermore, the applicant stated on a Form G-325, Biographic Information, which she signed under penalty of perjury, that she had taught at the National College of Science in Lahore, Pakistan from April 1985 to September 1986. She further stated that she was married in Pakistan on July 15, 1986 and lived in Pakistan until September 1986.

Given the unresolved inconsistencies and contradictions 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.