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FILE: [REDACTED]
MSC 02 162 63637

Office: LOS ANGELES

Date: MAY 04 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 sustained.

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 from before January 1, 1982 through May 4, 1988.

On appeal, the applicant submits an additional affidavit from an acquaintance in support of the 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. 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 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 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 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. See 8 C.F.R. § 245a.2(d)(3)(vi)(L).

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:

- An affidavit notarized May 10, 1991 from [REDACTED] of Pomona, California, who attested to the applicant's residences in the United States since 1980. [REDACTED] indicated that she rented an apartment to the applicant at [REDACTED], Los Angeles, California from May 1980 to September 1984.

- An affidavit notarized April 30, 1991 from [REDACTED] of La Verne, California, who attested to the applicant's residences in the United States since May 1980. [REDACTED] indicated that she has known the applicant from the time she resided with the [REDACTED] family.
- An affidavit notarized May 4, 1991 from [REDACTED] of Norwalk, California, who attested to the applicant's residences in the United States since May 1980. [REDACTED] indicated that she has known the applicant from the time she resided with the Miranda family.
- An affidavit notarized May 3, 1991 from [REDACTED] of Pomona, California, who attested to the applicant's residences in the United States since May 1980. [REDACTED] indicated that she has known the applicant from the time she resided with the [REDACTED] family.
- A medical identification card along with medical documents from the Los Angeles County Department of Health Services dated April 16, 1985, May 15 1985, June 4, 1985 and February 25, 1986.
- A medical document from an optometrist, C.A. Clark of Los Angeles, California dated January 7, 1986.
- Several envelopes postmarked during 1985 and 1986 and addressed to the applicant's address at [REDACTED], Sepulveda, California.
- Several envelopes postmarked during 1986 and addressed to the applicant's address at [REDACTED] Panorama City, California.
- An affidavit notarized May 21, 1994 from [REDACTED] of Tujunga, California, who indicated that she has known the applicant since 1984. [REDACTED] indicated that she occasionally employed the applicant as a housekeeper.
- An affidavit notarized May 19, 1994 from [REDACTED] of Los Angeles, California, who indicated that she has known the applicant since 1983 and has maintained a close friendship since that time.
- An affidavit notarized September 18, 1993 from [REDACTED] of Santa Ana, California, who indicated that she has known the applicant since 1982 and has maintained a close friendship since that time.
- An affidavit notarized May 19, 1994 from [REDACTED] of Anaheim, California, who attested to the applicant's residence in the United States since 1981. [REDACTED] indicated that since 1981, the applicant has been in his employ as a housekeeper and, on occasions, has taken care of his mother.
- An affidavit notarized October 13, 2004 from [REDACTED] of North Hollywood, California, who attested to the applicant's residences in the United States since May 1980. [REDACTED] based his knowledge on having been good friends with the applicant since that time.

The applicant submitted a letter from [REDACTED], who indicated that he has known the applicant since May 1980 and attested to the applicant's address at the time. [REDACTED]'s affidavit, however, has little probative value, as [REDACTED] provided no detail regarding the nature or origin of his relationship with the applicant or the basis for his continuing awareness of the applicant's residence.

The applicant also submitted a photocopied letter dated March 19, 1991 from [REDACTED] pastor of Sacred Heart Church in Pomona, California. The letter, which also contained the signatures of [REDACTED] and [REDACTED], indicated that both affiants came before the pastor and stated that they personally know that the applicant has been a member of the community since 1980 to 1991. This letter, however, has no evidentiary weight or probative value as it is based on third-party information obtained from [REDACTED] and [REDACTED]. Most importantly, the letter does not conform to the basic requirements specified in 8 C.F.R. § 245a.2(d)(3)(v).

Nevertheless, in this instance, the applicant submitted evidence, including contemporaneous documents, which tends to corroborate her claim of residence in the United States during the requisite period. The district director has not established that the information in this evidence was inconsistent with the claims made on the application, or that it was false information. As stated in *Matter of E--M--*, *supra*, when something is to be established by a preponderance of evidence, the applicant only has to establish that the proof is probably true. That decision also points out that, under the preponderance of evidence standard, an application may be granted even though some doubt remains regarding the evidence. The documents that have been furnished may be accorded substantial evidentiary weight and are sufficient to meet the applicant's burden of proof of residence in the United States for the requisite period.

The documentation provided by the applicant supports by a preponderance of the evidence that the applicant satisfies the statutory and regulatory criteria of entry into the United States before January 1, 1982, as well as continuous unlawful residence in the country during the ensuing time frame of January 1, 1982 through May 4, 1988, as required for eligibility for legalization under section 1104(c)(2)(B)(i) of the LIFE Act.

Accordingly, the applicant's appeal will be sustained. The district director shall continue the adjudication of the application for permanent resident status.

ORDER: The appeal is sustained.