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U.S. Citizenship  
and Immigration  
Services

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FILE: [REDACTED]  
MSC 03 098 61465

Office: LOS ANGELES

Date SEP 06 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. If your appeal was sustained, or if the matter 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:** 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 (AAO) 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 from before January 1, 1982 through May 4, 1988.

On appeal, the applicant asserts that she has been in the United States for over 22 years and submits additional documentation in support of the appeal.<sup>1</sup>

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.

The applicant alleged on her Form I-687, Application for Status as a Temporary Resident, that she first entered the United States in an unlawful status on November 18, 1981, when she was 13 years of age. The

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<sup>1</sup> The record contains a Form G-28, Notice of Entry of Appearance as Attorney or Representative, purporting to authorize Francisco Urrea to act on behalf of the applicant. The regulation at 8 C.F.R. § 103.2(a)(3) specifies that an applicant may be represented “by an attorney in the United States, as defined in § 1.1(f) of this chapter, by an attorney outside the United States as defined in § 292.1(a)(6) of this chapter, or by an accredited representative as defined in § 292.1(a)(4) of this chapter.” In this case, the person listed on the G-28 is not an authorized representative.

applicant stated that she worked as a machine operator for [REDACTED] from July 1983 to October 1988. The applicant did not identify any address at which she lived in the United States prior to January 1986.

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).

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

1. An April 21, 2003 sworn declaration from [REDACTED] in which she states that upon arrival in the United States in 1981 the applicant lived with Ms. [REDACTED] and her family at [REDACTED] in Los Angeles. Ms. [REDACTED] stated that she is married to the applicant's cousin.
2. An April 12, 2004 sworn declaration from [REDACTED] who stated that he has been acquainted with the applicant since 1981 when she first came to the United States, and that she lived in his home from 1981 to 1984, when she moved into her own home. This statement conflicts with that of Ms. [REDACTED] discussed above. 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). We note that the applicant stated in her LIFE Act interview on July 14, 2004 that she lived with her sister after leaving her godfather's home in 1984. Mr. [REDACTED] stated that he is the applicant's godfather.
3. An April 15, 2003 letter from [REDACTED], pastor of the Missionaries of the Holy Spirit. The letter indicated that the applicant was a member of the parish from 1981 through 1982. The letter does not indicate the source of the information contained in the letter and does not indicate the applicant's address at the time of her membership in the parish. 8 C.F.R. § 245a.2(d)(3)(v). Additionally, the address in the church's seal differs from the address on the letterhead.<sup>2</sup>
4. An April 21, 2003 sworn declaration from [REDACTED] who stated that the applicant is his sister-in-law, and that she was present in the United States in 1984 when he and his wife arrived, and that she had been living in the United States since 1981.
5. An April 21, 2003 sworn declaration from [REDACTED], the applicant's sister, in which she stated that she and husband arrived in the United States in 1984, but that her sister had resided in the United States since 1981.
6. A September 8, 2004 sworn affidavit from [REDACTED] in which he stated that he met the applicant in Los Angeles in 1981.
7. A September 8, 2004 sworn affidavit from [REDACTED] who stated that she met the applicant in November 1981 when a friend introduced them.

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<sup>2</sup> The letterhead also reflects a telephone area code for the church that had not been applicable for the location since 1999. See [www.telecomnetwork.net/area\\_codes\\_+.htm](http://www.telecomnetwork.net/area_codes_+.htm).

8. A September 8, 2004 sworn affidavit from [REDACTED] who stated that she met the applicant in July 1982 when the applicant accompanied her uncle to the home of the affiant's mother.
9. An April 21, 2003 sworn declaration from [REDACTED], who stated that he met the applicant in 1983 when she began dating his brother, who she eventually married.
10. A receipt signed by the applicant. The receipt indicates a date of February 4, 1983; however, the version of the form is dated 1994 and therefore could not have been issued in 1983. When questioned about the document during her adjustment interview, the applicant offered no explanation. This document raises questions about the applicant's credibility. Doubt cast on any aspect of the applicant's proof may, of course, 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.

In this instance, the applicant has submitted nine affidavits and third-party statements attesting to her continuous residence in the U.S. during the qualifying period. Affidavits in certain cases can effectively meet the preponderance of evidence standard. However, in the present case, **the applicant submitted statements only from friends or relatives. With the exception of the letter from [REDACTED] the applicant submitted no independent or objective statements, such as employment verification letters, to establish her presence and residency in the United States during the required period. Additionally, as noted above, the letter from [REDACTED] does not indicate the source of the information contained within it.**

Given the lack of contemporaneous documentation and objective affidavits corroborating the applicant's presence and residency in the United States, it is concluded that the applicant has failed to establish continuous residence in the U.S. for the required period.

The record reflects that the Border Patrol apprehended the applicant on August 24, 1999 attempting to cross the border using false identification. At the time, the applicant alleged that she had never lived or worked in the United States. The applicant was expeditiously removed from the United States on August 24, 1999 and advised that she was inadmissible into the United States for a period of five years pursuant to section 235(b)(1) of the Immigration and Nationality Act.

We note that the applicant filed a Form I-690, Application for Waiver of Grounds of Excludability, on April 29, 2004, acknowledging that she was inadmissible because she "exited the U.S. during amnesty." The waiver application was approved on April 29, 2004; however, this waiver application does not cover her 1999 removal and the final finding of inadmissibility.

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