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U.S. Citizenship  
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FILE: [REDACTED]  
MSC 02 246 64377

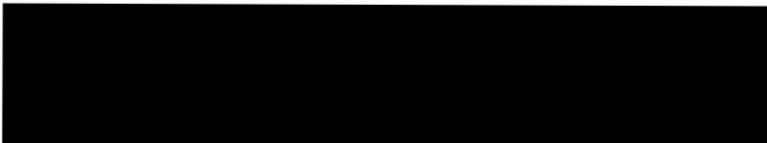
Office: NEW YORK

Date: APR 16 2008

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:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits [or Records] Center. 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. If your appeal was sustained or remanded for further action, you will be contacted.

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, New York, 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 failed to demonstrate that she entered the United States before January 1, 1982, and resided in a continuous unlawful status since that date through May 4, 1988.

On appeal, counsel requests the case be reconsidered and submits additional evidence.

Section 1104(c)(2)(B) of the LIFE Act states:

(i) In General – The alien must establish that the alien entered the United States before January 1, 1982, and that he or she has resided continuously in the United States in an unlawful status since such date and through May 4, 1988. In determining whether an alien maintained continuous unlawful residence in the United States for purposes of this subparagraph, the regulations prescribed by the Attorney General under section 245A(g) of the Immigration and Nationality Act (INA) that were most recently in effect before the date of the enactment of this Act shall apply.

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 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 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).

The regulation at 8 C.F.R. § 245a.2(d)(3)(v) states that letters from churches, unions or other organizations attesting to the applicant's residence must: identify the applicant by name; be signed by an official whose title is shown; show inclusive dates of membership; state the address where the applicant resided during membership period; include the seal of the organization impressed on the letter or the letterhead of the organization; establish how the author knows the applicant; and establish the origin of the information being attested to.

In the Notice of Intent to Deny (NOID), dated on February 3, 2006, the director stated that the applicant failed to establish submit credible evidence demonstrating her entry into the United States before January 1, 1982, and her continuous unlawful residence in the United States during the requisite period. The director granted the applicant thirty (30) days to submit additional evidence. The record reflects that no additional evidence was received. In the Notice of Decision, dated April 1, 2006, the director denied the instant applicant based on the reasons stated in the NOID.

The issue in this proceeding is whether the applicant has furnished sufficient credible evidence to demonstrate that she entered the United States before January 1, 1982, and continuously resided in an unlawful status in the United States during the requisite period. Here, the applicant has failed to meet this burden.

In support of the applicant's claim, the record contains the following relevant evidence:

1. A May 20, 2002, sworn affidavit by [REDACTED] who stated that she has known the applicant since November 1981. The affiant stated that the applicant took care of her children occasionally and they became good friends. The affiant provided her address of residence, telephone number, and passport number. [REDACTED] also provided a notarized declaration, dated April 17, 2006. [REDACTED] stated that she came to the United States in 1981 and became a permanent resident in 1984. Although not required, neither the affidavit nor the declaration included any supporting documentation of [REDACTED] presence in the United States. [REDACTED] failed to indicate how she dated her acquaintance with the applicant, how she met the applicant or how frequently she saw the applicant. [REDACTED] also failed to indicate the applicant's place of residence during the requisite period. The lack of details deters from the credibility of the affiant.
2. A May 21, 2002, sworn affidavit by [REDACTED], who stated that he has known the applicant since "many times ago" and that the applicant has resided in the United States since "about 20 years." The affiant provided his address of residence and telephone number, and the applicant's current address of residence. The affidavit lacks any detailed information. Although not required, the affiant failed to include any

supporting documentation of his presence in the United States. The affiant failed to indicate how he dated his acquaintance with the applicant, how he met the applicant or how frequently he saw the applicant. The affiant also failed to indicate the applicant's place of residence during the requisite period. The affidavit provides minimal probative value.

3. A January 7, 1991, notarized declaration by [REDACTED] who stated that the applicant has been working with her since June 1982. The declarant stated that the applicant helps her clean apartments. The declarant provided her address of residence and telephone number. Although not required, the declarant failed to include any supporting documentation of her identity or presence in the United States. The declarant failed to indicate how she dated her acquaintance with the applicant, how she met the applicant or how frequently she saw the applicant. The declarant also failed to indicate the applicant's place of residence during the requisite period. The declaration provides minimal probative value.
4. A Queen's Women's Medical Service medical note with the applicant's name, dated January 15, 1983. The note contains a telephone number with a 718 area code. The director noted that this area code was not created until 1984.<sup>1</sup> This discrepancy seriously detracts from the credibility of the applicant's claim.
5. An undated declaration by [REDACTED] who stated that she has known the applicant since 1983. The declarant provided her address of residence and telephone number. Although not required, the declarant failed to include any supporting documentation of her presence in the United States. The declarant failed to indicate how she dated her acquaintance with the applicant, how she met the applicant or how frequently she saw the applicant. The declarant also failed to indicate the applicant's place of residence during the requisite period. The declaration provides minimal probative value.
6. A May 20, 2002, declaration by [REDACTED] of St. Teresa's Rectory, who stated that the applicant has been a parishioner since 1985 and attends mass every Sunday. The declarant provided the church's address and telephone number, and the applicant's current address of residence. The declaration failed state the address where the applicant resided during membership period, establish how the author knows the applicant, and establish the origin of the information being attested to as required under the regulation at 8 C.F.R. § 245a.2(d)(3)(v). The absence of these details deters from the credibility of the declarant.

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<sup>1</sup> [REDACTED], *718 Area Code for Brooklyn, Queens and Staten Island Gains Approval*, N. Y. Times B1 (Feb. 16, 1984).

7. A May 21, 2002, sworn affidavit by [REDACTED], who stated that she has known the applicant since January 1986. The affiant provided her passport number, address of residence and telephone number. Although not required, the affiant failed to include any supporting documentation of her presence in the United States. The affiant failed to indicate how she dated her acquaintance with the applicant, how she met the applicant or how frequently she saw the applicant. The affiant also failed to indicate the applicant's place of residence during the requisite period. The lack of details deters from the credibility of the affiant.
8. A January 6, 1991, notarized declaration by [REDACTED] who stated that the applicant resided at [REDACTED] from 1981 to 1987. [REDACTED] stated that she was the applicant's landlord and the applicant paid rent to her each month. The affiant also provided a notarized declaration, dated April 17, 2006. [REDACTED] stated that the applicant resided in her apartment at [REDACTED], Woodside, New York, from the 1981 to 1987. The declarant provided her address of residence and telephone number. Although not required, the declarant failed to include any supporting documentation of the declarant's presence in the United States during the requisite period or to corroborate the declarant's claim, such as rent receipts, lease agreement, household bills, etc. The lack of detailed documentation detracts from the credibility of the declarant.
9. A February 21, 2006, sworn affidavit by [REDACTED], who stated that she met the applicant on February 8, 1982, and they have been visiting each other since then. Ms. [REDACTED] stated that she came to the United States on January 23, 1978, became a legal resident on October 7, 1982, and became a U.S. citizen on February 28, 1992. The affiant provided her address of residence and telephone number. The affiant failed to indicate how she dated her acquaintance with the applicant or how she met the applicant. The affiant also failed to indicate the applicant's place of residence during the requisite period. The lack of details deters from the credibility of the affiant.
10. A February 21, 2006, sworn affidavit by [REDACTED] who stated that he met the applicant in August 1981. The affiant provided his address of residence, telephone number, social security number and an employment letter indicating his employment since 1981. The affiant failed to indicate how he dated his acquaintance with the applicant, how he met the applicant or how frequently he saw the applicant. The affiant also failed to indicate the applicant's place of residence during the requisite period. The lack of details deters from the credibility of the affiant.
11. A February 21, 2006, sworn affidavit by [REDACTED] who stated that met the applicant in Woodside on February 14, 1982, and since that time have seen each other very often. The affiant provided her naturalization certificate number, and stated that she came to the United States on January 26, 1966 and became a U.S. citizen on June 11, 1996. Although not required, the affiant failed to include any supporting

documentation of her presence in the United States. The affiant failed to indicate how she dated her acquaintance with the applicant or how she met the applicant. The affiant also failed to indicate the applicant's place of residence during the requisite period. The lack of details deters from the credibility of the affiant.

Although the applicant has submitted numerous affidavits in support of her application, the applicant has not provided sufficient evidence of residence in the United States during the duration of the requisite period. As stated previously, the evidence must be evaluated not by the quantity of evidence alone but by its quality. Here, the applicant has not provided sufficient evidence in support of her claimed entry in July 1, 1981, through the Mexican border. Also, there is nothing in the record to explain the discrepancy regarding the area code in the medical note. Moreover, the absence of sufficiently detailed documentation to corroborate the applicant's claim of continuous residence for the entire requisite period seriously 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 upon documents with minimal probative value, it is concluded that she has failed to establish continuous residence in an unlawful status in the United States during the requisite period.

Therefore, based on the above, the applicant has failed to establish entry into the United States prior to January 1, 1982, and continuous unlawful residence through May 4, 1988 as required under Section 1104(c)(2)(B) of the LIFE Act. Given this, she is 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.