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U.S. Department of Homeland Security  
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U.S. Citizenship  
and Immigration  
Services

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FILE:

MSC 02 246 60334

Office: NEW YORK

Date:

**APR 17 2008**

IN RE:

Applicant:



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. If your appeal was dismissed or rejected, all documents have been returned to the National 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 on appeal. The appeal will be dismissed.

The 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 “strongly” believes she is “qualified to apply for permanent residence under the LIFE ACT because [she] arrived in the United States [on] May 20, 1981 and stayed” until she traveled to Canada. The applicant provides a statement 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. 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 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 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).

On her Form I-687, Application for Status as a Temporary Resident, which she signed under penalty of perjury on February 21, 1990, the applicant stated that she worked with a hairdresser named [REDACTED] at [REDACTED], Bronx, New York from July 1981 until the date of her Form I-687 application.

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 March 17, 1990, affidavit from [REDACTED] in which he stated that the applicant resided with him from May to June 1981, and that she lived at [REDACTED] in Bronx, New York from July 1981 until the date of the affidavit. In a February 14, 1991, sworn statement [REDACTED] again stated that the applicant lived with him from May to June 1981.
2. A March 19, 1990, affidavit from [REDACTED], in which she stated that the applicant lived with her at [REDACTED] in Bronx, New York from July 1981 to "the present." [REDACTED] stated that, while the applicant contributed to the rent and the household bills, all receipts were in the affiant's name. In a May 22, 1990, affidavit, [REDACTED] stated that the applicant had lived with her since January 1, 1988. The applicant submitted no documentation, such as postmarked envelopes or similar documentation to corroborate her residence at [REDACTED] in Bronx.
3. An October 8, 1991, sworn statement from [REDACTED], in which he stated that in July 1987, he drove the applicant, who was then his girlfriend, to Toronto, Canada, in a cab that he borrowed from a friend.
4. A September 5, 1990, sworn declaration from the applicant's father, in which he stated that the applicant arrived for a visit with him in Ghana on July 16, 1987, and returned to the United States on August 17, 1987.

On May 18, 2005, the director issued a Notice of Intent to Deny in which she notified the applicant that her evidence was insufficient to meet her burden of proof. The director noted that the applicant had indicated in her interview that she was a self-employed hairdresser who worked out of her sister's apartment. The director noted that this was inconsistent with the applicant's claim of working with Mrs. [REDACTED], and that the applicant submitted no corroborative evidence of any employment. In response, the applicant submitted a letter in which she reaffirmed that she had worked for [REDACTED] but stated that she was unable to obtain confirmation because [REDACTED] had moved.

The applicant reiterates this information in her statement submitted in support of her appeal. The applicant also alleges on appeal that her trip to Canada was accompanied via her church van. This statement is inconsistent with that of [REDACTED], who stated that he drove the applicant to Toronto in a borrowed taxicab.

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).

The applicant has provided contradictory information regarding her employment and residency during the requisite period and her means of travel to Canada in 1987. She has provided no contemporaneous evidence of her presence and residency in the United States. Given this absence of any contemporaneous documentation, along with the unresolved inconsistencies in the record, it is concluded that the applicant has failed to establish continuous residence in the U.S. for the required period.

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