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U.S. Citizenship  
and Immigration  
Services

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[REDACTED]

FILE: [REDACTED]  
MSC 03 224 61988

Office: NEW YORK

Date: **APR 17 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:

[REDACTED]

**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, 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, counsel states that the director erred in denying the application because the applicant did not submit evidence that her affiants resided in the United States during the requisite period. The applicant submits additional documentation 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).

The regulation at 8 C.F.R. § 245a.2(d)(3)(i) provides that letters from employers attesting to an applicant’s employment must provide the applicant’s address at the time of employment; identify the exact period of employment; show periods of layoff; state the applicant’s duties; declare whether the information was taken from company records; and identify the location of such company records and state whether such records are accessible or in the alternative state the reason why such records are unavailable.

During her LIFE Act interview on May 5, 2004, the applicant stated that she first arrived in the United States in November 1981, when she crossed the border without a visa. On her Form I-687, Application for Status as a Temporary Resident, which she signed under penalty of perjury on August 16, 1989, the applicant stated that she lived at [REDACTED] in Brooklyn, New York from November 1981 until the date of her Form I-687 application. The applicant further stated that she worked in New York from February 1982 to October 1987; however, she did not identify any employers for whom she worked during that time. She stated that she worked for P.S. Gardner Corporation in Union New Jersey as a companion from November 1987 to the date of the 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 copy of an April 19, 2004, sworn statement from [REDACTED] in which she stated that she had known the applicant since 1981.
2. An April 5, 2004, sworn statement from [REDACTED] in which he stated that he had known the applicant since 1983. Mr. [REDACTED] did not state the circumstances of his acquaintance with the applicant or how he dated his relationship with her.
3. An April 14, 2004, sworn statement from [REDACTED] Senior, in which he stated that he had known the applicant since 1985. Mr. [REDACTED] did not state the circumstances of his acquaintance with the applicant or how he dated his relationship with her.
4. Copies of medical treatment records from Woodhull Medical and Mental Health Center in Brooklyn, reflecting that the applicant received medical care at the facility in August 1987. The applicant's address was shown as 6 [REDACTED], in Brooklyn.

The applicant also submitted a copy of a bank savings passbook, copies of training certificates, and a copy of a petition for divorce. These documents are all dated subsequent to May 4, 1988, and therefore are not probative in establishing the applicant's continuous residence and presence in the United States during the qualifying period.

On August 10, 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, noting that the affidavits submitted by the applicant did not provide evidence of a relationship between the affiant and the applicant.

In response, the applicant submitted the following documentation:

5. A copy of an August 19, 2005, notarized letter from [REDACTED] in which she stated that her sister, who had traveled from Jamaica to live with her, introduced her to the applicant in 1981. She stated that the applicant was unable to contact her uncle with whom she was supposed to be staying, so she allowed the applicant to live with her. Ms. [REDACTED] further stated that after visiting her uncle, the applicant requested to continue living with [REDACTED], and was allowed to do so, and the applicant "contributed generously to [her] household." Ms. [REDACTED] did not identify the address at which she lived during this period and the applicant provided no other evidence of her residency with [REDACTED]

6. An August 22, 2005, sworn statement from [REDACTED] expanding on her April 2004 statement. Ms. [REDACTED] stated that she and the applicant attended the same school in Jamaica, and when the applicant came to live in the United States in 1981, they renewed their friendship. Ms. [REDACTED] further stated that the applicant provided her with childcare services on occasion, traveling from Brooklyn to Bronx to help her.
7. An August 19, 2005, sworn statement from [REDACTED] expanding upon his April 2004 statement. Mr. [REDACTED] stated that he met the applicant in 1983, when he was landlord of [REDACTED] in Brooklyn, and the applicant was staying with one of his tenants. He stated that he eventually married the applicant's friend. Mr. [REDACTED] did not identify the tenant with whom the applicant was living.

The applicant also submitted photographs that she stated are of her and her friends. However, the photographs are not dated and provide no indication that they were taken in the United States during the qualifying period.

On appeal, the applicant submits the following additional documentation:

8. An October 10, 2005, letter from her uncle, in which he states that the applicant came to the United States in 1981. He stated that the applicant lived with him "on and off" but did not state the dates that she lived with him or the address at which they lived.
9. An undated letter from [REDACTED], in which she states that the applicant stayed with her periodically until her uncle was contacted, and that they became friends. Ms. [REDACTED] again did not identify the address at which she and the applicant lived and did not identify the address at which the applicant lived with her uncle.
10. A September 30, 2005, letter from [REDACTED], in which he stated that the applicant was his housekeeper in Great Neck, New York between 1982 and 1986.

During her LIFE Act interview, the applicant stated that she lived with [REDACTED] from 1981 to 1985 on [REDACTED] before renting her own apartment at [REDACTED] in 1985. She also stated that she did not have a steady job and worked odd jobs.

The applicant provides inconsistent statements and evidence regarding her residency in the United States. While she stated on her Form I-687 application that she lived at [REDACTED] in Brooklyn from 1981 until she filed her Form I-687 application in 1989, she stated during her interview that she lived on [REDACTED] during this time. Additionally, [REDACTED] initially stated that the applicant lived with her and contributed to her household. However, she later stated that the applicant stayed with her "periodically until her uncle was contacted," and the applicant's uncle stated that she lived with him "on and off."

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).

Additionally, the letter from [REDACTED] fails to comply with the requirements of 8 C.F.R. § 245a.2(d)(3)(i), in that it does not state the exact period of the applicant's employment and does not indicate her address at the time he employed her. Doctor [REDACTED] did not indicate how he dated his employment of the applicant. For these reasons, his letter lacks probative value.

The applicant has provided contradictory information regarding her residency during the requisite period, and 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 United States for the required period.

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