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FILE: [REDACTED] Office: NEW YORK Date: **APR 25 2008**
MSC 02 169 62332

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. The file has been returned to the National Benefits Center. 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 District Director, New York, denied the application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

On July 17, 2007, the director denied the application, finding that the applicant submitted affidavits and letters that were either not credible or not verifiable. The director noted that although the applicant asserted that she entered the United States in 1981, when she was 11 years old, the record contained no school records or immunization records, despite the fact that she was of school age during the statutory period. The director concluded that the applicant failed to establish by a preponderance of the evidence that she took up residence in the United States on or prior to January 1, 1982.

On appeal, the applicant asserts that it is impossible for her to provide any school records or medical records because she lost all her records when she moved. She cannot give any more information about the affiants mentioned in the director's Notice of Intent to deny (NOID) her application because she does not know where they live. She states that because she moved to different places and did not know at the time that she would need documents, she is unable to provide any additional information.

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).

On March 18, 2002, the applicant submitted the current Form I-485, Application to Register Permanent Residence or Adjust Status. On March 8, 2004, the applicant appeared for an interview based on her application.

On May 14, 2007, the director sent the applicant a Notice of Intent to Deny (NOID) her application. The director stated that the applicant’s testimony during her interview was not credible. Specifically, the director noted that the applicant’s assertion that she never went to school in the United States and worked as a hair braider in 1982, despite the fact that she would have been about 11 years old at the time was not credible. The director also stated the affidavits the applicant submitted were either not credible or nor verifiable. The director informed the applicant that she had 30 days from the receipt of the NOID to rebut or submit evidence to overcome the director’s intent to deny his application. In response, the applicant stated that she had already provided all the evidence she had.

On July 17, 2007, the director denied the application, finding that the applicant submitted affidavits and letters that were either not credible or not verifiable. The director noted that although the applicant asserted that she entered the United States in 1981, when she was 11 years old, the record contained no school records or immunization records, despite the fact that she was of school age during the statutory period. The director concluded that the applicant failed to establish by a preponderance of the evidence that she took up residence in the United States on or prior to January 1, 1982.

On appeal, the applicant asserts that it is impossible for her to provide any school records or medical records because she lost all her records when she moved. She cannot give any more information about the affiants mentioned in the NOID because she does not know where they live. She states that because she moved to different places and did not know at the time that she would need documents, she is unable to provide any additional information.

The issue in this proceeding is whether the applicant provided sufficient credible evidence to establish that she continuously resided and was continuously physically present in the United States during the requisite period.

The applicant did not submit any evidence to support her Form I-485 application. The only documentation in the record to support her assertion that she was here during the statutory period was not submitted with the current application, but is part of the record, as it was submitted in support of the applicant's Form I-687, Application for Temporary Residence:

Affidavits

- The applicant submitted two brief, unnotarized letters from residential hotels, attesting that the applicant lived there: [REDACTED] manager of the [REDACTED], located at [REDACTED]; and the manager at the Hotel [REDACTED] located at [REDACTED], New York, New York.

The [REDACTED] manager simply attested that the applicant resided at the hotel from December 1981 until March 1984. Mr. [REDACTED] stated that the applicant resided at the [REDACTED] from March 1984 to July 1988.

These affidavits can be given little evidentiary weight. Specifically, [REDACTED] and the manager of the [REDACTED] failed to state which business records their information was taken from, to identify the location of such records, and to state whether such records are accessible or, in the alternative, state the reason why such records are unavailable. Furthermore, the letters lack sufficient detail.

- The record of proceeding also contains letters from two acquaintances of the applicant. Mr. [REDACTED] simply attested that he met the applicant when he came by his job to visit some of her girlfriends. Ms. [REDACTED] stated that she met the applicant at a party in Brooklyn given by some of her African friends. She stated that she has known the applicant since 1981.

These letters can be given little evidentiary weight, as they do not provide sufficient detail of the writers' personal knowledge of the applicant's continuous residence and continuous physical presence. For example, the writers do not describe how they know where the applicant was residing based on their relationship with the applicant, or how frequently they saw the applicant.

- The applicant also submitted two fill-in-the-blank affidavits from [REDACTED] and [REDACTED]. Ms. [REDACTED] stated that she has known the applicant since 1981 and that they met at a girlfriend's Corning Ware party. Ms. [REDACTED] states that she and the applicant have known each other since 1981 and that she met the applicant at a dance in the Boston Road Ballroom.

Again, these letters are can be given little evidentiary weight, as they do not provide sufficient detail of the writers' personal knowledge of the applicant's continuous residence and continuous physical presence. Again, the writers do not describe how they know where the applicant was residing based on their relationship with the applicant, or how frequently they saw the applicant.

- The applicant submitted a letter from [REDACTED] from the Public Information section of the Malcolm Shabazz mosque in New York, New York. [REDACTED] stated that the applicant is a member of the Muslim Community and that she had been here since December 1981. Mr. [REDACTED] stated the applicant attended Friday Jumah Prayer Services and other Prayer Services at the mosque.

This letter can be given little evidentiary weight and has little probative value as it does not provide basic information that is expressly required by 8 C.F.R. § 245a.2(d)(3)(i). Specifically, [REDACTED] does not explain the origin of the information to which he attests, nor does he provide the address where the applicant resided during the period of his involvement with the mosque.

- The applicant submitted a letter from [REDACTED], indicating that the applicant entered the United States on or about February 10, 1988.

This letter cannot be given any weight as it is not probative of the applicant's residence in the United States during the requisite time period.

Although the applicant has submitted numerous letters and affidavits in support of her application, she has not provided any contemporaneous evidence of residence in the United States during the requisite period. As stated previously, the evidence must be evaluated not by the quantity of evidence alone but by its quality. Although not required, none of the affidavits included any supporting documentation of the applicant's presence in the United States during the requisite period.

The remaining evidence in the record is comprised of the applicant's statements in which she claims to have first entered the United States in 1981 and to have resided for the duration of the requisite period in New York. As noted above, to meet her burden of proof, the applicant must provide evidence of eligibility apart from her own testimony. The applicant has failed to do so. Given the applicant's reliance upon documents with minimal probative value, the applicant has failed to establish continuous residence in an unlawful status in the United States for the requisite period, as required under both 8 C.F.R. § 245a.2(d)(5) and *Matter of E- M--*, *supra*.

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.