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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
MSC 02 057 61360

Office: NEW YORK Date: DEC 02 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:

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.

John F. Grissom, Acting Chief
Administrative Appeals Office

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the Director, New York, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The district director denied the application because the applicant had admitted that she did not arrive in the United States until after the required period, and thus had not continuously resided in the United States in an unlawful status since before January 1, 1982 through May 4, 1988.

On appeal the applicant asks that CIS reconsider her application.

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. 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).

An applicant must establish eligibility by a preponderance of the evidence. 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.

Citizenship and Immigration Services (CIS) regulations provide an illustrative list of contemporaneous documents that an applicant may submit to establish presence during the required period. 8 C.F.R. § 245a.15(b)(1); *see also* 8 C.F.R. § 245a.2(d)(3)(vi)(L). Such evidence may include employment records, tax records, utility bills, school records, hospital or medical records, or attestations by churches, unions, or other organizations so long as certain information is included. The regulations also permit the submission of affidavits and any other relevant document, but applications submitted with unverifiable documentation may be denied.

Documentation that does not cover the required period is not relevant to a determination of the alien's presence during the required period and will not be considered or accorded any evidentiary weight in these proceedings.

On July 9, 2007, the director sent the applicant a Notice of Intent to Deny (NOID), which stated that she was not eligible due to her admission that she had arrived subsequent to the required period.

The applicant submitted a written response asserting that she misspoke during her interview.

On August 13, 2007, the director denied the application because the applicant had failed to establish his continuous unlawful presence during the required period.

On appeal the applicant asks that CIS reconsider her application.

The applicant has submitted some evidence which is not relevant to the required period. She has also submitted very little evidence in support of her life application, although the record contains some evidence in relation to a previously filed I-687, Application to Adjust Status to Temporary Residence.

Relevant to the period in question the record contains the following evidence:

- (1) **Statement from** [REDACTED] asserting she met the applicant two months after she arrived in the United States in 1980, and that she lived with her for a year and a half at the address [REDACTED], New York, NY.
- (2) **Statement from** [REDACTED] asserting that the applicant entered the United States in 1981, and that she traveled to the Dominican Republic on July 15, 1987 and returned on foot on August 13, 1987.
- (3) **Statement from** [REDACTED] asserting she has known the applicant since October 1981.
- (4) **Statement from** [REDACTED] asserting he has known the applicant since 1981.
- (5) **Statement from** [REDACTED] asserting the applicant worked for Butterfly Manufacturing Company from October 1981, until June 1986.
- (6) **Statement from** [REDACTED] asserting the applicant worked at D & P Grocery Store from June 1986 until the date of the letter [1989].
- (7) **Statement from** [REDACTED] asserting the applicant lived at his house from September 1981 through May 1987.

As stated above, the inference to be drawn from the documentation provided shall depend on the *extent* of the documentation. The minimal evidence furnished cannot be considered extensive, and in such cases a negative inference regarding the claim may be made as stated in 8 C.F.R. § 245a.12(e).

The applicant has not submitted any primary evidence, and relies entirely on affidavits to establish eligibility for the required period. Documents which generically assert an affiant has known an applicant since a particular year are not sufficiently probative to support assertions of

eligibility. Such casual knowledge of an applicant lacks the context to be sufficiently probative such that CIS can make an informed determination that the applicant has been residing continuously in an unlawful status for the duration of the required period. In this case the documents listed are so generic, and provide so little information that they provide no significant weight to the applicant's assertions. The letters at Nos. 5 and 6 above attesting to the applicant's employment do not meet the criteria established for employment letters, and are not supported by any other corroborating information in the record. 8 C.F.R. § 245a.2(d)(3)(i).

The applicant admitted during an interview that she did not arrive in the United States until September of 1982. The evidence which has been submitted is not sufficiently probative or credible to support the applicant's changed testimony. In light of the applicant's admission that she did not arrive in the United States until September 1982, and in light of the minimal evidence and information submitted in support of the applicant's case, the documents are not sufficient to establish eligibility.

An alien applying for LIFE Act legalization has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of section 245a of the Act. The applicant has failed to meet this burden.

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