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

**PUBLIC COPY**

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[Redacted]

FILE:

MSC 03 182 63261

Office: NEW YORK

Date:

JUN 24 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. 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.

A handwritten signature in black ink, appearing to read "R. Wiemann", with a large flourish at the end.

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, Dallas, and is now before the Administrative Appeals Office 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 through May 4, 1988. Specifically, the director found that the evidence in the record was insufficient and contained numerous inconsistencies that were unresolved prior to adjudication.

On appeal, the applicant submits new documentary evidence not previously submitted in support of the appeal.

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).

In a form for determination of class membership, which she signed under penalty of perjury on September 4, 1991, the applicant stated that she first arrived in the United States in September 1981 when she crossed the

border without inspection. On her Form I-687, Application for Status as a Temporary Resident, which she also signed under penalty of perjury on September 4, 1991, the applicant confirmed that her last entry into the United States was on September 1, 1981. The applicant further claimed to live at [REDACTED], New York, NY 11226 from September 1981 to July 1988.

Regarding her employment history, the applicant claimed on the same form that she was employed by the following employers during the relevant period:

February 1982 to May 1984: [REDACTED], House Help  
April 1984 to Present: [REDACTED], Cleaner

On both forms, the applicant claimed that she departed the United States once during the requisite period for a trip to Canada in August 1987.

The AAO concurs with the director's finding that the applicant submitted insufficient evidence to establish continuous residence and physical presence in the United States during the requisite period. In an attempt to establish continuous unlawful residence since before January 1, 1982 through May 4, 1988, the applicant furnished the following evidence:

- (1) Notarized letter dated April 14, 2004 from [REDACTED] claiming that she has known the applicant for almost two decades. Ms. [REDACTED] claims that the applicant resided with a mutual friends, and that is how they began their friendship.
- (2) Notarized letter dated April 15, 2004 from [REDACTED], claiming that she has known the applicant since 1981.
- (3) Notarized letter dated April 12, 2004 from [REDACTED] Faculty/Academic Advisor for Brooklyn College, Graduate Center for Worker Education. Ms. [REDACTED] claims that she has known the applicant for 23 years.
- (4) Undated letter from [REDACTED] claiming that he drove the applicant to Canada on August 5, 1987 and that they returned to the United States on August 8, 1987.
- (5) Letter dated August 6, 1991 from [REDACTED] claiming that the applicant, his cousin, visited him in Canada on August 5, 1987 and that she departed on August 8, 1987
- (6) Undated statement from [REDACTED] of [REDACTED], claiming that the applicant worked as a cleaner for the company from April 1984 to the present, and that she earned a salary of \$270.00 per week.
- (7) Notarized letter dated August 7, 1991 by [REDACTED], claiming that the applicant joined her household in February 1982 and worked with her family for two years.
- (8) Affidavit dated August 23, 1991 by [REDACTED], claiming that the applicant resided with him at [REDACTED], Brooklyn, NY from September 1981 to July 1988.
- (9) Affidavit dated August 3, 1993 by [REDACTED], claiming that she is a friend of the applicant's from Jamaica. She claims that she has knowledge that the applicant resided at [REDACTED], Brooklyn, from September 1981 to July 1988.

- (10) Affidavit dated August 20, 1991 by [REDACTED], claiming that the applicant is a friend of the family and that they lived together beginning August 1988. She claims to have knowledge that the applicant resided at [REDACTED], Brooklyn, from September 1981 to July 1988.
- (11) Affidavit dated August 30, 1991 by [REDACTED], claiming that she has knowledge that the applicant resided at [REDACTED], Brooklyn, from September 1981 to July 1988. She claims that the applicant is a friend of the family.

On October 6, 1988, the applicant issued a sworn statement in affidavit form claiming that: (1) she entered the United States in January 1986; and (2) that she paid [REDACTED] (last name unknown) \$2,500.00 for Form I-705 and supporting affidavits.

In the Notice of Intent to Deny (NOID) dated December 19, 2005, the director noted that the applicant's sworn statement with regard to her obtaining fraudulent documents to procure a visa rendered her ineligible to adjust to permanent resident status. Notwithstanding this issue, the director also noted that she had failed to meet her burden of proof with regard to her continuous physical presence and residence during the requisite period. The applicant was afforded thirty days to supplement the record with additional evidence of her eligibility. In response, the applicant submitted the following documents:

- (1) Notarized letter dated January 2, 2006 by [REDACTED] claiming that the applicant was her neighbor at [REDACTED] in 1984.
- (2) Notarized letter dated January 9, 2006 by [REDACTED], claiming that the applicant was seen for an initial medical visit on April 24, 1985, and again on October 28, 1988.
- (3) Notarized letter dated January 8, 2006 by [REDACTED], claiming that the applicant would come to her home and babysit her daughter when her daughter, who is now 25 years old, was an infant.
- (4) Notarized letter dated January 8, 2006 by [REDACTED], claiming that she has been acquainted with the applicant for 24 years.
- (5) Notarized letter dated January 8, 2006 by [REDACTED] claiming that the applicant came to the United States in 1981 and that he knew her in Jamaica.
- (6) Notarized letter dated January 6, 2006 by [REDACTED], claiming that she has been friends with the applicant since the early eighties.
- (7) Notarized letter dated January 5, 2006 by [REDACTED] claiming that he has known the applicant since 1981 and they kept in touch when she came to the United States.
- (8) Notarized letter dated January 9, 2006 by [REDACTED] claiming that he has known the applicant for more than 20 years.
- (9) Notarized letter dated January 9, 2006 by [REDACTED] claiming that she has known the applicant for the past 30 years, and claims that they have continued their friendship since the applicant began residing in the United States twenty-four years ago.

The director found that the applicant's submissions failed to overcome the basis for his objections, and subsequently the application was denied on February 17, 2006. On appeal, the applicant submits no arguments or written brief, but merely provides an abundance of documentary evidence, all of which pertains to the period outside the requisite period except for the following:

- (1) Affidavit dated August 8, 1991 by [REDACTED] claiming that she has knowledge that the applicant resided at [REDACTED] from September 1981 to July 1988. It is noted that additions and corrections are evident on this page; however, they are not initialed or verified.

The applicant is ineligible for permanent resident status due to her failure to submit sufficient evidence in support of the application. As stated in 8 C.F.R. § 245.15(b)(1), a list of evidence that may establish an alien's continuous residence in the United States can be found at § 245a.2(d)(3).

Although the applicant claims she entered the United States in September 1981, she likewise claims that she entered without inspection. As a result, there is no documentary evidence in the form of an arrival-departure record or stamped passport to verify the exact date of entry. The applicant provided a number of affidavits in support of her presence in the United States in 1981. Moreover, it is noted that in her sworn statement to CIS on October 6, 1988, she claims that she did not enter the United States until January 1986, in contrast to her claims in the instant application. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). If CIS fails to believe that a fact stated in the petition is true, CIS may reject that fact. Section 204(b) of the Act, 8 U.S.C. § 1154(b); *see also Anetekhai v. I.N.S.*, 876 F.2d 1218, 1220 (5th Cir.1989); *Lu-Ann Bakery Shop, Inc. v. Nelson*, 705 F. Supp. 7, 10 (D.D.C.1988); *Systronics Corp. v. INS*, 153 F. Supp. 2d 7, 15 (D.D.C. 2001).

Finally, in an attempt to support her contention that she did in fact enter the United States in September 1981, the applicant submits in excess of 20 affidavits. While there is no specific regulation which governs what third party individual affidavits should contain to be of sufficient probative value, the regulations do set forth the elements which affidavits from organizations are to include. 8 C.F.R. § 245a.2(d)(3). These guidelines provide a basis for a flexible standard of the information which an affidavit should contain in order to render it probative for the purpose of comparison with the other evidence of record.

According to the guidelines set forth in 8 C.F.R. § 245a.2(d)(3), a signed attestation should contain (1) an identification of the applicant by name; (2) the dates of the applicant's continuous residence to which the affiant can personally attest; (3) the address(es) where the applicant resided throughout the period which the affiant has known the applicant; (4) the basis for the affiant's acquaintance with the applicant; (5) the means by which the affiant may be contacted; and, (6) the origin of the information being attested to. *See* 8 C.F.R. § 245a.2(d)(3)(v).

While these standards are not to be rigidly applied, an application which is lacking in contemporaneous documentation cannot be deemed approvable if considerable periods of claimed continuous residence rely entirely on affidavits which are considerably lacking in such basic and necessary information.

The affidavits in the record fall far short of meeting the evidentiary guidelines. Most of these documents are written by a person who contends to have known the applicant for "20 years" or "30 years," yet no specifics are provided. In fact, most affiants do not clarify whether they knew the applicant in the United States or in Jamaica. Moreover, all of these affidavits contradict the applicant's sworn statement of October 8, 1988 in which she claimed she first entered the United States in January 1986.

A few errors or minor discrepancies are not reason to question the credibility of an alien seeking immigration benefits. *See, e.g., Spencer Enterprises Inc. v. U.S.*, 345 F.3d 683, 694 (9th Cir., 2003). However, anytime an application includes numerous errors and discrepancies, and the applicant fails to resolve those errors and discrepancies after CIS provides an opportunity to do so, those inconsistencies will raise serious concerns about the veracity of the applicant's assertions. As stated above, the applicant clearly intended to fraudulently procure a visa by paying for documents and filing Form I-700. These actions cast doubt on the remaining claims and evidence in the record pertaining to the period from before January 1, 1982 to May 4, 1988. Doubt cast on any aspect of the petitioner's proof may undermine the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. at 591. In this case, the discrepancies and errors catalogued above lead the AAO to conclude that the evidence of the applicant's eligibility is not credible.

The above negative factors would not necessarily be fatal to the applicant's claim, if the affidavits upon which the claim relies are consistent both internally and with the other evidence of record, plausible, credible, and if the affiant set forth the basis of his knowledge for the testimony provided.

Given the absence of corroborating documentation to support the weak evidence in the record, including affidavits which do not meet basic standards of probative value, it is concluded that the applicant has failed to establish, by a preponderance of evidence, that she continuously resided in the United States in an unlawful status since before January 1, 1982 through May 4, 1988, or that she maintained continuous physical presence in the United States during the period from November 6, 1986 through May 4, 1988. Therefore, the applicant 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.