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U.S. Citizenship
and Immigration
Services

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FILE: [Redacted]
MSC 02 221 62491

Office: LOS ANGELES

Date: SEP 26 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:



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: On June 19, 2007, the District Director, Los Angeles, 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.

The director denied the application, finding that the applicant did not establish, by a preponderance of the evidence, that she entered the United States before January 1, 1982, and resided continuously in the United States prior to January 1, 1982, and through May 4, 1988. The director noted that only evidence of her continuous residence was in the form of unnotarized affidavits. The director found that the affidavits the applicant submitted were insufficiently detailed, the postmarked envelopes illegible, and the receipts unverifiable.

On appeal, counsel for the applicant asserts that the applicant did receive the NOID and did not have an opportunity to respond to it. Counsel asserts that the applicant swore under penalty of perjury several times to tell the truth and that all of her testimony should be taken as true. Counsel asserts that the affiants were all willing to come in and testify on the applicant's behalf. Counsel submits affidavits from two affiants who assert that they have personal knowledge of the applicant's residence in the United States since 1985.

An applicant for permanent resident status under section 1104 of the LIFE Act 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. See § 1104(c)(2)(B) of the LIFE Act and 8 C.F.R. § 245a.11(b). The applicant has the burden to establish by a preponderance of the evidence that he or she has resided in the United States for the requisite period, 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 states 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 regulation at 8 C.F.R. § 245a.2(d)(3) provides an illustrative list of contemporaneous documents that an applicant may submit in support of his or her claim of continuous residence in the United States in an unlawful status prior to January 1, 1982, the submission of any other relevant document is permitted pursuant to 8 C.F.R. § 245a.2(d)(3)(vi)(L). See 8 C.F.R. § 245a.15(b). To meet his or her burden of proof, an applicant must provide evidence of eligibility apart from the applicant's own testimony. 8 C.F.R. § 245a.12(f). Affidavits indicating specific, personal knowledge of the applicant's whereabouts during the relevant time period are given greater weight than fill-in-the-blank affidavits providing generic information.

The regulation at 8 C.F.R. § 245a.2(d)(3)(i) states 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.

The issue in this proceeding is whether the applicant has furnished sufficient credible evidence to meet her burden of establishing by a preponderance of the evidence, that her claim of entry into the United States before January 1, 1982, and continuous residence in the United States during the requisite period is probably true. Upon examination of each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, the AAO finds that the applicant has failed to meet this burden.

A LIFE Legalization applicant must also provide evidence establishing that, before October 1, 2000, he or she was a class member applicant in a legalization class-action lawsuit. See 8 C.F.R. § 245a.14. In this case, the record reflects that the applicant applied for such class membership by submitting a "Form for Determination of Class Membership in *CSS v. Meese* [CSS lawsuit]," accompanied by a Form I-687 "Application for Status as a Temporary Resident (Under Section 245A of the Immigration and Nationality Act)," filed on March 13, 1990.

On May 9, 2002, the applicant submitted a Form I-485, Application to Register Permanent Residence or Adjust Status. On February 22, 2007, the applicant appeared for an interview based on the application.

Although the applicant submits some credible evidence of residence beginning in 1985, including affidavits from her cousin, [REDACTED] and her California driver license issued on April 14, 1986, there is minimal evidence of residence before 1985. The record of proceeding contains the following evidence relating to the applicant's residence in the United States before 1985:

- A letter dated March 10, 1990, from [REDACTED] states that the applicant was living and working as a housekeeper from December 1981, through April 1985, at [REDACTED]. She asserts that the applicant's "salary was minimum pay with room and board, transportation, etc." She states that the applicant is a very mature, responsible, and reliable person. Although she states that the applicant lived with and worked for her from 1981 to [REDACTED], [REDACTED] fails to indicate any specific, personal knowledge of the applicant's travel to or entry into the United States. She provides minimal details about the circumstances regarding her continuous residence during the statutory period. Because this letter is significantly lacking in relevant detail, it lacks probative value and has only minimal weight as evidence of the applicant's residence in the United States during the requisite period; and,
- Several receipts made out to the applicant for purchases made in California during the requisite period, dated in December 1981, April 1982, and January 1983. Although the applicant's name is written on these receipts, her address is not included on all of them, and, while a receipt for purchases may indicate presence in the United States on the date issued, it has minimal weight as evidence of continuous residence.

As noted above, to meet her burden of proof, the applicant must provide evidence of eligibility apart from her own testimony. In this case, her assertions regarding her entry prior to January 1, 1982 and residence through 1985, are supported only by one letter and four receipts, all of which have minimal probative value for the reasons described above. When viewed within the context of the totality of the evidence, such documentation is not sufficient to support a finding that it is more likely than not that the applicant resided continuously in the United States from before January 1, 1982, through May 4, 1988; nor does such documentation place the applicant in the United States prior to January 1, 1982.

The record of proceedings contains other documents, including envelopes postmarked on April 24, 1989, December 11, 1989, October 20, 1989, February 27, 1989, July 26, 1990, and December 27, 1990, and a handwritten receipt dated April 23, 1989. All of this evidence is dated after the requisite statutory period and does not address the applicant's qualifying residence or physical presence during the eligibility period in question, specifically from before January 1, 1982, through May 4, 1988.

The remaining evidence in the record is comprised of the applicant's statements and application forms, in which she claims to have first entered the United States without inspection in December 1981, and to have resided for the duration of the requisite period in California and Nevada. As noted above, to meet his or her burden of proof, the applicant must provide evidence of eligibility apart from his or her own testimony. The applicant has failed to do so. In this case, her assertions regarding her entry are not supported by any credible evidence in the record.

The absence of credible and probative documentation to corroborate the applicant's claim of entry and continuous residence for the entire requisite period detracts from the credibility of her claim. Pursuant to 8 C.F.R. § 245a.12(e), the inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. Given the applicant's reliance on only affidavits, which lack relevant details, and the lack of any probative evidence of her entry and residence in the United States from prior to January 1, 1982 and through May 4, 1988, the applicant has failed to establish by a preponderance of the evidence that she maintained continuous, unlawful residence in the United States as required for eligibility for adjustment to permanent resident status under section 1104(c)(2)(B)(i) of the LIFE Act. The applicant is, therefore, 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.