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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
MSC 02 242 61812

Office: NEW YORK

Date: FEB 04 2009

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 office that originally decided your case. If your appeal was sustained, or if your case 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: On August 6, 2007, the 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.

The director denied the application, finding that the applicant failed to submit sufficient evidence to establish her continuous presence in the United States during the statutory period. The director noted that the only documentation the applicant submitted in support of her application consisted of affidavits and that the affidavits did not appear credible or amenable to verification.

On appeal, counsel for the applicant asserts that the director did not give due weight to the affidavits the applicant submitted.

An applicant for permanent resident status under section 1104 of the LIFE Act has the burden to establish by a preponderance of the evidence 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 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). To meet his or her burden of proof, an applicant must provide evidence of eligibility apart from his or her own testimony. 8 C.F.R. 245a.12(f). Affidavits that indicate specific, personal knowledge of the applicant’s whereabouts during the

relevant time period are given greater weight than fill-in-the-blank affidavits that provide 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.

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)" dated September 22, 1989.

On May 30, 2002, the applicant submitted the current Form I-485, Application to Register Permanent Residence or Adjust Status. On April 4, 2004, the applicant appeared for an interview based on the application.

The issue in this proceeding is whether the applicant has furnished sufficient credible evidence to meet his burden and establish by a preponderance of the evidence, that his 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.

The documentation that the applicant submits in support of her application consists of various affidavits and letters.

The affidavits from [REDACTED], and [REDACTED] can be given minimal weight as evidence of the applicant's required continuous residence as they contain minimal details regarding any relationship with the applicant during the requisite period. Although the affiants assert that they have known the applicant since 1981, they fail to indicate any personal knowledge of the applicant's claimed entry to the United States during that year. While they assert that they have personal knowledge that the applicant has resided in the United States since 1981, the affiants also fail to provide sufficient relevant details regarding the circumstances of the applicant's residence during the statutory period. Lacking such relevant detail, the statements can be afforded only minimal weight as evidence of the applicant's continuous residence in the United States for the requisite period.

The fill-in-the-blank "Affidavit of Residence" dated October 6, 1989, from [REDACTED] has minimal probative value in supporting the applicant's claims that she entered the United States before January 1, 1982 and resided in the United States for the entire requisite period. While [REDACTED] states that the applicant lived with him from 1981 to 1989, he fails to submit

corroborating evidence of the applicant's residence in the house, such as a lease. In addition, [REDACTED] provides no documentation to corroborate the fact that he, himself, lived at the mentioned address from 1981 to 1989. [REDACTED] does not indicate personal knowledge of the applicant's entry into the United States, and does not explain how, where, when, or under what circumstances he met the applicant. As the applicant's roommate of eight years, [REDACTED] fails to provide sufficient relevant details regarding the circumstances of the applicant's residence during the statutory period other than the address where he resided. Lacking such relevant details, this affidavit can be given minimal weight as evidence of the applicant's continuous residence during the requisite period

The letter from the Pentecostal Bibleway Outreach Mission stating that the applicant became a member of the church on November 25, 1981, does not provide basic information that is expressly required by 8 C.F.R. 245a.2(d)(3)(i). The letter does not explain the origin of the information given, nor does it provide the address where the applicant resided during the period of her involvement with the church. Instead, the letter states generally that the applicant "has been attending church service, meeting and crusade any time is held." Given this lack of detail, the letter can be given minimal weight as evidence of the applicant's continuous residence or physical presence in the United States during the requisite period.

Similarly the letter from the [REDACTED] Association of U.S.A. can be given minimal evidentiary weight. The letter provides no explanation about the activities or aims of the association and simply states that the applicant "registered with the Association in December 1981 as a bona fide member and has been an asset to both the association and its members." Furthermore, the letter does not describe what records were consulted to supply the information given and did not provide the address where the applicant resided during her involvement with the association.

The letter dated July 6, 1990, from the Consulate General of Ghana can also be given minimal weight of the applicant's required continuous residence. The letter states that the applicant arrived in the United States on October 8, 1981, and registered with the consulate on December 12, 1981. The letter asserts that the applicant registered with the consulate but does not explain what records were consulted to supply the information given. No contact information is provided, so the information provided in the letter is not verifiable. Even if the information could be verified, the letter would serve only to establish the applicant's presence in the United States for two months in 1981.

Although the applicant has submitted several letters and affidavits in support of her application, she has not provided any contemporaneous evidence of residence in the United States during the duration of the requisite period. As stated previously, the evidence must be evaluated not by the quantity of evidence alone but by its quality.

The record of proceedings contains other documents, including several employment verification letters. This evidence is dated after or refers to events that occurred after May 4, 1988, 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 on October 15, 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. In this case, her assertions regarding her entry are not supported by any credible evidence in the record.

Having examined each piece of evidence, both individually and within the context of the totality of the evidence, the AAO finds that the applicant has not shown by a preponderance of the evidence she entered into the United States before January 1, 1982, and that she resided continuously in an unlawful status for the requisite period.

Pursuant to 8 C.F.R. § 245a.2(d)(5), 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 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.