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[REDACTED]

FILE: [REDACTED]
MSC 02 262 60204

Office: NEW YORK

Date: MAR 05 2009

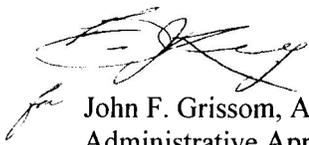
IN RE: Applicant: [REDACTED]

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:
[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.


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, New York, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director determined that the applicant had not established that she resided in the United States in a continuous unlawful status from before January 1, 1982 through May 4, 1988, as required by section 1104(c)(2)(B) of the LIFE Act.

On appeal, the applicant asserts that she has submitted sufficient evidence, in the form of numerous affidavits to support her application for adjustment of status under the LIFE Act. The applicant does not submit additional evidence on 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 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).

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.

In the Notice of Intent to Deny (NOID), dated September 21, 2007, the director stated that the applicant failed to submit sufficient credible evidence demonstrating that she entered the United States before January 1, 1982, and her continuous unlawful residence in the United States, during the requisite period. The director noted that the applicant submitted affidavits that were neither credible nor amenable to verification. The director noted that the applicant indicated on her Form I-687 application that she entered the United States, in 1981, and that she had departed once, to Senegal, in 1987; however, the applicant indicated on her Form G-325A, and testified at her interview on July 26, 2004, that she was married in Senegal on May 16, 1984, and, that she received her National Identification card in Senegal on July 14, 1983. In addition, the director noted that the applicant submitted letters from [REDACTED] and from [REDACTED], respectively, which were not verifiable, noting that numerous previous applicants had presented letters of the same type from these establishments. The director granted the applicant thirty (30) days to submit additional evidence.

In the Notice of Decision, dated January 23, 2004, the director denied the instant application based on the reasons stated in the NOID. The director noted that the applicant submitted a personal statement in response to the NOID, but failed to overcome the reasons for denial stated in the NOID.

The issue in this proceeding is whether the applicant has furnished sufficient credible evidence to demonstrate that he continuously resided in the United States in an unlawful status during the requisite period. The applicant submitted letters, affidavits, and other documents as evidence to support his Form I-485 application. Here, the submitted evidence is neither probative, nor credible.

The record of proceedings also contain a letter from [REDACTED] of [REDACTED], located at [REDACTED]. The letter states that the applicant has been a member of the Muslim community since January 1981, and she attends Friday Jumah prayer and other prayer services at the Masjid. The regulation at 8 C.F.R. § 245a.2(d)(3)(v) provides requirements for attestations made on behalf of an applicant by churches, unions, or other organizations. Attestations must: (1) Identify applicant by name; (2) be signed by an official (whose title is shown); (3) show inclusive dates of membership; (4) state the address where applicant resided during membership period; (5) include the seal of the organization impressed on the letter or the letterhead of the organization, if the organization has letterhead

stationery; (6) establish how the author knows the applicant; and (7) establish the origin of the information being attested to.

The letter from [REDACTED] does not comply with the above cited regulations because they do not state the address where the applicant resided during the attendance period; establish in detail that the author knows the applicant and has personal knowledge of the applicant's whereabouts during the requisite period; establish the origin of the information being attested to; and, that attendance records were referenced or otherwise specifically state the origin of the information being attested to. For this reason, the letter is not deemed probative and is of little evidentiary value.

The applicant has submitted questionable documentation. The applicant has submitted numerous affidavits and letters attesting to the residence in the United States since January 1981. However, the record of evidence casts considerable doubt on whether any of these letters and affidavits are genuine. As noted above, the applicant testified, and her Form G-325A indicates, that she was married in Senegal on May 16, 1984. The applicant also testified that she received her National Identification card in Senegal on July 14, 1983. The record also contains a photocopy of a Senegalese National Identification card, bearing the applicant's photograph, which was issued in Senegal on July 14, 1983. While the applicant asserts, in her response to the NOID, that she married in Senegal in an Islamic tradition and her presence was not required; and, that her mother obtained her National Identification card for her in Senegal on July 14, 1983, while she was in the United States, the applicant does not provide any documentation to support these assertions.

Also, as noted by the director the letters from [REDACTED], of the [REDACTED] and from [REDACTED], are not verifiable as [REDACTED] could not be located, and the [REDACTED] businesses had no listing, and was out of business. The director also noted previous applicants had presented affidavits of the same type from the establishment. In addition, the director deemed fraudulent the letter from [REDACTED] because of numerous similar letters received from these businesses. Therefore, the letters are not credible and are not probative.

The above discrepancy casts considerable doubt on whether the applicant resided in the United States since December 1981 as she claimed. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). The applicant has failed to submit any objective evidence to explain or justify the discrepancies in the record. Therefore, the reliability of the remaining evidence offered by the applicant is suspect.

It is also noted the applicant has not provided any reliable documents, such as employment records which pertain to the requisite period. The absence of sufficiently detailed documentation to corroborate the applicant's claim of continuous residence for the entire requisite period seriously

detracts from the credibility of her claim. 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, it is concluded that she has failed to establish continuous residence in an unlawful status in the United States from prior to January 1, 1982, through May 4, 1988.

The remaining evidence in the record does not establish the requisite continuous residence as it does not relate to the requisite period, and therefore, is not probative to establish the applicant's residence since prior to January 1, 1982. The applicant has not submitted any additional evidence in support of her claim that she entered the United States prior to January 1, 1982, and she had resided continuously in the United States during the entire requisite period.

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.