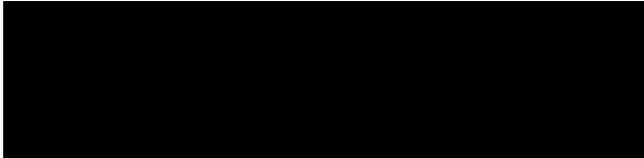


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U.S. Department of Homeland Security  
U. S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services



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FILE: [REDACTED]  
MSC 01 303 60918

Office: GARDEN CITY

Date: **MAY 15 2009**

IN RE: Applicant: [REDACTED]

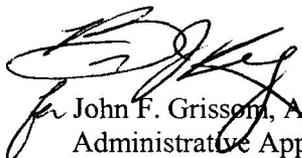
APPLICATION: Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), amended by LIFE Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000).

ON BEHALF OF APPLICANT:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has been returned to the 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.

  
for John F. Grisson, 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, Garden City, 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, counsel for the applicant asserts that the applicant has submitted sufficient evidence to establish the requisite continuous residence. Counsel submits 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 July 30, 2007, the director stated that the applicant failed to submit sufficient evidence demonstrating her continuous unlawful residence in the United States during the requisite period. The director noted that the affidavits and letters submitted were neither credible, nor amenable to verification. The director granted the applicant thirty (30) days to submit additional evidence.

In the Notice of Decision, dated September 10, 2007, the director denied the instant application based on the reasons stated in the NOID. The director noted that the applicant responded to the NOID, but the evidence provided failed to overcome the reasons for denial stated in the NOID.

Counsel contends, on appeal, that the applicant has submitted sufficient evidence, in the form of affidavits and letters to establish the requisite continuous residence. Counsel submits affidavits and identification documentation from, [REDACTED] three affiants who previously provided affidavits and letters.

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

The applicant provided the following:

- 1) Three affidavits from [REDACTED], dated September 15, 2007, April 16, 1991, December 7, 2002; and, a letter, dated March 22, 1990, and notarized on April 4, 1990, stating that the applicant has been a tenant at [REDACTED] Jamaica, N.Y. 11422, since January 1981. In her September 15, 2007 affidavit [REDACTED] attests that she has known the applicant since 1975 while she resided in Colombia. [REDACTED] also attests that in 1981 the applicant came to New York and told her how she traveled across the Mexican border into the United States. In her April 16, 1991 affidavit, [REDACTED] attests to knowing the applicant to have resided at [REDACTED], Jamaica, N.Y. 11422, since January 1981. However, in these affidavits and in her letter, the affiant does not indicate how she dates her acquaintance with the applicant, and whether and how frequently she had contact with the applicant.

- 2) An affidavit from [REDACTED] dated October 9, 2007, respectively; and, a note written on a prescription form from [REDACTED] stating that she has known the applicant for approximately 20 years. In her affidavit, [REDACTED] attests that she has known the applicant since 1981, that the applicant has been her patient, and she has prescribed medicine for the applicant on several occasions. [REDACTED] however, does not provide details, such as how she dates her acquaintance with the applicant, or how frequently she treated the applicant. In that [REDACTED] attests that the applicant has been her patient, it is reasonable to expect that she would be able to provide details, such as specific dates, which presumably are readily obtainable from her records of the applicant.
- 3) Two affidavits from [REDACTED] dated September 15, 2007, and December 7, 2002 respectively; and, a sworn statement from [REDACTED] dated October 11, 1989, and notarized on March 5, 1990, attesting that she has known the applicant since 1981. In her September 15, 2007 affidavit [REDACTED] attests that she has known the applicant since 1968 while she resided in Colombia. [REDACTED] also attests that in 1981 the applicant came to New York and told her how she traveled through the Mexican border into the United States. In her December 7, 2002 affidavit [REDACTED] attests that she has known the applicant since 1980 when they first met in their home town of Pereria, Colombia, at the house of [REDACTED]. [REDACTED] also attests that the applicant first came to the United States in November 1981, and that the applicant lived with [REDACTED], a mutual friend, at [REDACTED] Philadelphia, "until the latter part of 1983." Ms. [REDACTED] attests further that "for the past seven years" the applicant had been residing with [REDACTED], at [REDACTED] Jamaica, N.Y. 11422.
- 4) An affidavit from [REDACTED] attesting to knowing the applicant to have resided at [REDACTED], Jamaica, New York 11422, since January 1981. [REDACTED] also states that the applicant is a "kind and generous friend." [REDACTED], however, does not indicate how she dates her acquaintance with the applicant, and whether and under what circumstances she had contact with the applicant since that time.
- 5) An affidavit from [REDACTED] attesting to knowing the applicant since May 1981. The affiant, however, does not indicate whether she has known the applicant in the United States, and she does not indicate how she dates her acquaintance with the applicant, and whether and under what circumstances she had contact with the applicant since that time.
- 6) A letter from [REDACTED], stating that he has known the applicant since 1987. [REDACTED] also states that from September 1987 the applicant helped him and his wife care for their daughter, and on weekends the applicant visited their home at [REDACTED], Hollis, NY 11432.

The record of proceedings also contains a letter from [REDACTED], of the Shrine Church of Saint Gerald Majella, located at [REDACTED] stating that the applicant has been a member of the Saint Gerard's parish since 1981. [REDACTED] also states that the applicant resides at [REDACTED], and that she regularly attends services at the church. 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 the Shrine Church of Saint Gerald Majella does not comply with the above cited regulations because it does not: state the address where the applicant resided during attendance ... (membership) ... 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 (membership) 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.

Contrary to counsel's assertion, the applicant has submitted questionable affidavits in an attempt to establish her continuous residence during the requisite period. For example, the applicant submitted affidavits from [REDACTED] that are inconsistent. In her December 2, 2002 affidavit, [REDACTED] attests to having known the applicant "approximately since 1980," and that when the applicant came to the United States in November 1981, the applicant lived with a "common friend," [REDACTED], at [REDACTED], and, that the applicant took care of [REDACTED]'s house and children, and remained there "until the latter part of 1983." In her September 15, 2007 affidavit, however, [REDACTED] attests to having known the applicant in Columbia since 1975; and in her April 16, 1991 affidavit [REDACTED] attests that the applicant resided at [REDACTED] since January 1981. It is also noted that the affidavit of [REDACTED] (which is dated January 10, 1991) also contradicts [REDACTED] December 2, 2002 affidavit because she attests that the applicant resided at [REDACTED] Jamaica, N.Y. 11422 since January 1981.

In addition, the applicant has submitted questionable documentation. Specifically, the applicant provided a receipt from John Mullins & Sons, Inc., located at [REDACTED]. It is noted however, that the receipt, which is dated December 20, 1983, bears a "718" area code. The "718" area code, however, did not come into existence until September 1984.

Given these glaring discrepancies in the applicant's documentation, it is questionable whether the evidence provided, including numerous affidavits and letters she has provided in support of her application is genuine, and whether she has resided in the United States since 1981 as she claims. 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 her testimony and in the record. Therefore, the reliability of the remaining evidence offered by the applicant is suspect and it must be concluded that the applicant has failed to establish that she continuously resided in the United States in an unlawful status during the requisite period.

As stated previously, the evidence must be evaluated not by the quantity of evidence alone but by its quality. 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.

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.