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FILE: [REDACTED]  
MSC 02 214 61577

Office: LOS ANGELES

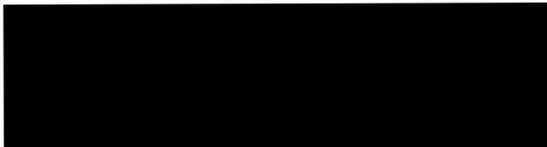
Date: FEB 05 2007

IN RE: Applicant:



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. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

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, Los Angeles, California, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The director denied the application because the applicant had not demonstrated that she had continuously resided in the United States in an unlawful status since before January 1, 1982 through May 4, 1988.

On appeal, the applicant counsel asserts that the evidence submitted “unequivocally demonstrates the applicant’s presence from 1982 on.” Counsel further asserts that the director failed to consider the evidence submitted in response to the Notice of Intent to Deny (NOID) and failed to accord it the proper weight. Counsel submits copies of previously submitted documentation in support of the appeal.

An applicant for permanent resident status 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. Section 1104(c)(2)(B) of the LIFE Act; 8 C.F.R. § 245a.11(b).

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 petitioner 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 petitioner 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 or petition.

Although Citizenship and Immigration Services (CIS) 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. 8 C.F.R. § 245a.2(d)(3)(vi)(L).

The applicant stated on a form to determine class membership, which she signed under penalty of perjury on December 9, 1993, that she first entered the United States unlawfully in December 1981. On her Form I-687, Application for Status as a Temporary Resident, which she also signed under penalty of perjury on December 9, 1993, the applicant admitted to one absence from the United States during the **qualifying** period, in June 1987 to visit her relatives in Mexico. The applicant also stated that she lived at [REDACTED]

██████████ in Los Angeles from December 1981 to January 1984, ██████████ in Los Angeles from February to December 1984, and at ██████████ in Los Angeles from January 1985 until December 1988. The applicant listed a single employer on her Form I-687 application for whom she stated she worked during the qualifying period: ██████████ in Los Angeles for which she stated she worked from August 1986 to November 1988.

In an attempt to establish continuous unlawful residence since before January 1, 1982 through May 4, 1988, the applicant submitted the following evidence:

1. A September 29, 1995 sworn statement from ██████████ in which she stated that the applicant lived with, and was supported by, her from December 1981 to January 1984. Ms. ██████████ repeated this statement in a November 18, 2004 sworn statement. We note that the applicant stated on her Form I-687 application that she lived at ██████████ in Los Angeles with a zip code of ██████████ while Ms. ██████████ stated that she lived at ██████████ in ██████████ with a zip code of ██████████. We note for the record that both cities are in Los Angeles County and the two cities are within five miles of each other, according to directions provided by Mapquest. Therefore, we do not consider these statements as necessarily inconsistent. In response to the NOID, the applicant also submitted an envelope with a March 17, 1982 canceled Mexican postmark, addressed to her at the Los Angeles address she claimed. Nonetheless, the applicant submitted no documentary evidence that Ms. ██████████ owned, rented or otherwise occupied the residence on ██████████ or that she provided support to the applicant during her residency there. While the envelope provided by the applicant is evidence of presence in the United States on a given date, it is not evidence that the applicant resided at a particular location.

We note also that Ms. ██████████ stated in her 2004 sworn statement that she and the applicant worked together for two years from 1984 and were paid in cash. Ms. ██████████ did not indicate the name of her employer, and the applicant did not indicate that she was employed at any time prior to 1986. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the applicant submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

2. A May 18, 2004 affidavit from ██████████ in which she stated that she has known the applicant since 1982. However, the affiant did not indicate the circumstances surrounding her initial acquaintance with the applicant or that the acquaintance occurred in the United States. The affiant did not indicate that to her knowledge, the applicant resided in the United States during the period of their acquaintance. In a June 23, 2004 statement, Ms. ██████████ stated that she and the applicant were "partners," and that they have lived together for the past ten years.
3. A May 18, 2004 affidavit from ██████████ in which she stated that she has known the applicant since 1983. Ms. ██████████ did not indicate the circumstances surrounding her initial acquaintance with the applicant or that the acquaintance occurred in the United States. The affiant did not indicate that to her knowledge, the applicant resided in the United States during the period of their acquaintance.
4. A November 18, 2004 sworn statement from ██████████ in which she stated that she worked with the applicant at a sewing factory from 1984 through 1987 until the applicant

“decided to better her self and moved on. This company that we work for paid cash to over half of the employees. Because she did not have her legal status, [the applicant] was paid in cash, same as many other employees in the factory.” [redacted] did not identify the factory where she and the applicant allegedly worked. Further, the applicant did not indicate that she was employed during 1984 and 1985. *Id.* Additionally, the record reflects that the company that the applicant stated that she worked for issued her a Form W-2 and reported wages for her in 1987 and issued her pay stubs in 1988.

5. A November 18, 2004 sworn statement from [redacted] in which she stated that she met the applicant in 1984 when she came to work at [redacted] Company. Ms. [redacted] stated that she was one of the applicant’s supervisors, and that they worked together until 1987 when they left. Ms. [redacted] also stated that a fire destroyed the company in October 1991. This information conflicts with that provided by the applicant on her Form I-687 application in which she stated that she began working for [redacted] in August 1986. This information also conflicts with the documentary evidence submitted by the applicant that shows she worked for [redacted] Company until at least August 1988, the date of her last pay stub. *Id.*
6. A copy of a 1987 Form W-2, Wage and Tax Statement, from [redacted] Inc, reflecting wages paid of \$2,029.41, and a copy of a December 2, 2003 Social Security Earnings Statement, reflecting that \$2,029 were reported as earnings for the applicant in 1987. The statement reflects no other reported earnings by the applicant during the qualifying period.
7. Copies of several envelopes, many without legible postmarks. However, those that are legible reflect canceled postmarks in 1987 and 1988, or subsequent to the reporting period (with the exception of the 1982 envelope discussed above). The envelopes bearing the 1987 postmarks are addressed from the applicant at [redacted] in Los Angeles, or to the applicant at [redacted] in Los Angeles, at neither of which the applicant claimed that she lived on her Form I-687 application. The envelope bearing a March 30, 1988 postmark shows the applicant’s address as [redacted] in Los Angeles, an address that she stated on her Form I-687 application that she last lived at in December 1984. *Id.*
8. A copy of a February 2, 1988 receipt, with the applicant’s name and an address at [redacted] in Los Angeles. The receipt does not show the merchant’s name or address, and it is unclear as to the product actually purchased.
9. A January 29, 1988 receipt for an application for a State of California identification card, and a copy of the identification card issued on that date, both showing an address of [redacted] in Los Angeles. The applicant stated on her Form I-687 application that she was living at [redacted] in Los Angeles at this time.
10. A May 6, 1988 pay stub from [redacted] Inc.<sup>1</sup>

The record reflects that the applicant was apprehended on August 31, September 5 and September 6, 1999, attempting to cross the border with false identification. In each instance, the applicant denied that she had ever lived in the United States. The record also reflects that the applicant is under an order of expedited removal dated September 6, 1999 and has been determined to be inadmissible into the United States for a

<sup>1</sup> Pay stubs from [redacted] Inc. outside of the reporting periods are dated in June, July and August 1988.

period of 20 years from that date. Section 212(a)(9) of the Immigration and Nationality Act; 8 U.S.C. § 1182(a)(9). The record contains an unadjudicated Form I-690 application for waiver of grounds of excludability.

Given the unresolved inconsistencies in the record and the minimum contemporaneous documentation, it is concluded that the applicant has failed to establish continuous residence in the U.S. for the required period.

**ORDER:** The appeal is dismissed. This decision constitutes a final notice of ineligibility.