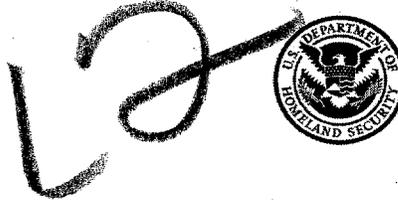


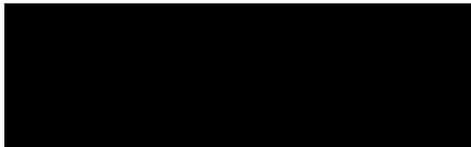
**PUBLIC COPY**

U.S. Department of Homeland Security  
20 Mass, Rm. A3042, 425 I Street, N.W.  
Washington, DC 20536

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U.S. Citizenship  
and Immigration  
Services



FILE:



Office: BALTIMORE

Date:

FEB 02 2004

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. The file has been returned to the Baltimore office. 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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the Acting District Director, Baltimore, and is now before the Administrative Appeals Office on appeal. The case will be remanded for further action and consideration.

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.

When something is to be established by a preponderance of the evidence it is sufficient that the proof establish that it is probably true. *See Matter of E--M--*, 20 I. & N. Dec. 77 (Comm. 1989).

In an effort to establish that she resided in the United States from November 1980 through May 4, 1988, the applicant furnished affidavits from various individuals. The director did not specify any actual deficiencies in these affidavits. Nevertheless, he did conclude that affidavits alone, unsupported by accompanying contemporaneous documentation, lack probative value. However, as stated in *Matter of E--M--*, *supra*, the director cannot refuse to consider affidavits, or any form of evidence relating to the 1981-88 period.

In evaluating evidence of residence, the director may consider the following:

- 1) Quality and extent of evidence;
- 2) Inconsistencies between evidence and claims;
- 3) Lack of explanation as to why the applicant is unable to produce contemporaneous documentation;
- 4) Contradictions in information the applicant has provided on the application and on other forms such as Form I-687 Application for Status as a Temporary Resident, and Form G-325A Biographic Information;
- 5) Lack of proof of entry for aliens from non-contiguous nations whose nationals normally enter the United States at ports-of-entry;
- 6) Any ADP records which may disclose entries to and departures from the United States that aliens made but failed to disclose, that could significantly affect their credibility; and
- 7) Lack of school records, or other evidence of enrollment, for minors

The burden of proof is upon an applicant to establish she resided in the United States during the claimed period. The applicant must submit some type of documentation that would support her claim. The documentation must be credible. The director must address the evidence furnished initially, and in response to the notice of intent to deny, and make a determination as to its credibility. It is not sufficient to simply state that the applicant has not overcome the grounds set forth in the intent notice. Any perceived shortcomings in the evidence must be specified by the director, in order that the applicant be allowed the opportunity to file a meaningful appeal.

Accordingly, the case will be remanded for the purpose of a new decision addressing the above. If the new decision is adverse, it shall be certified to this office.

**ORDER:** The case is remanded for appropriate action and decision consistent with the foregoing.