

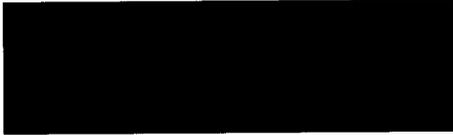
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U.S. Department of Homeland Security
20 Mass Ave., N.W., Rm. A3042
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U.S. Citizenship
and Immigration
Services

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FILE:



Office: DENVER

Date: FEB 18 2005

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.

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 District Director, Denver, Colorado, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

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

It is noted that counsel indicated that he was filing a motion to reconsider and not an appeal. The district director declined to treat counsel's request as a motion to reconsider and forwarded the matter to the AAO. As such, counsel's request will be treated as an appeal.

On appeal, counsel asserts that the director failed to fully consider the evidence presented to determine the applicant's physical presence for the period in question.

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. 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).

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).

Although 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).

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

- A notarized affidavit from [REDACTED] who indicated that the applicant resided with him in Bronx, New York from January 1982 through November 1988.
- An employment letter dated November 21, 1988 from [REDACTED] payroll administrator of St. Luke's Roosevelt Hospital Center in New York, New York attesting to the applicant's employment since June 1983.
- A letter dated April 25, 2003 from [REDACTED] of Union Baptist Evangelical Temple in Bronx, New York indicating that the applicant was a member of its church from January 1988 through 1997.

On appeal, counsel submits the following evidence:

- A 1982 and 1983 postmarked envelope addressed to the applicant's residence in Bronx, New York.