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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:



Office: Dallas

Date:

FEB 23 2005

IN RE:

Applicant:



PETITION: 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:

Self-represented

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. 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.

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, Dallas, Texas, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

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 from before January 1, 1982 through May 4, 1988.

On appeal, the applicant asserts that he has submitted sufficient evidence to support his claim of continuous residence in this country since prior to January 1, 1982. The applicant provides a brief and copies of previously submitted documentation in support of his appeal.

The applicant appears to be represented; however the record does not contain Form G-28, Notice of Entry of Appearance as Attorney or Representative. All representations will be considered but the decision will be furnished only to the applicant.

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. 8 C.F.R. § 245a.12(e). When something is to be established by a preponderance of evidence it is sufficient that the proof only establish that it is probably true. *See Matter of E-- M--*, 20 I. & N. Dec. 77 (Comm. 1989).

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).

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).

In support of his claim of continuous unlawful residence since before January 1, 1982, the applicant submitted fifteen affidavits of residence, photocopies of two postmarked envelopes, two employment letters, and a letter of registration from the Ghanian Consul-General in New York, New York.

In the notice of intent to deny issued on May 27, 2003, the district director questioned the veracity of the applicant's claim of residence because of perceived defects in the two employment letters he had submitted in support of such claim. Specifically, the district director stated the following regarding the two employment letters:

...it appears that the letter dated April 21, 1989 that you provided from Urban Express and the letter dated April 17, 1989, that you provided from [REDACTED] were prepared on the

same computer since the font and size of type are identical. In addition, it appears that the letters were prepared by the same individual since the errors in punctuation on both letters are identical. In addition, the date of the notary signature on both letters is April 15, 1989-two days before the date on Boaseto Laundromat letter, and six days before the date on the Urban Express letter.

In response, the applicant submitted a statement in which he asserted that [REDACTED] and Boaseto Laundromat were both located in the same business district and both enterprises utilized the same print and copy company within that same area to prepare the employment letters. Furthermore, on appeal, the applicant notes that the district director erred in stating that the notary signature had been affixed to the employment letters on April 15, 1989, prior to the date the letters were executed. Rather, the applicant asserts that the notary signature was affixed on May 15, 1989, the date the letters were signed.

The explanations put forth by the applicant in response to notice of intent to deny and on appeal appear to have credibly resolved the questions raised by the district director regarding perceived defects in the two employment letters submitted by the applicant.

In this instance, the applicant submitted evidence, including affidavits, employment letters and contemporaneous documents, which tends to corroborate his claim of residence in the United States during the requisite period. The district director has not established that the information in this evidence was inconsistent with the claims made on the application, or that it was false information. As stated on *Matter of E--M--*, *supra*, when something is to be established by a preponderance of evidence, the applicant only has to establish that the proof is probably true. That decision also points out that, under the preponderance of evidence standard, an application may be granted even though some doubt remains regarding the evidence. The documents that have been furnished may be accorded substantial evidentiary weight and are sufficient to meet the applicant's burden of proof of residence in the United States for the requisite period.

The documentation provided by the applicant supports by a preponderance of the evidence that the applicant satisfies the statutory and regulatory criteria of entry into the United States before January 1, 1982, as well as continuous unlawful residence in the country during the ensuing time frame of January 1, 1982 through May 4, 1988, as required for eligibility for legalization under section 1104(c)(2)(B)(i) of the LIFE Act.

Accordingly, the applicant's appeal will be sustained. The district director shall continue the adjudication of the application for permanent resident status.

ORDER: The appeal is sustained.