

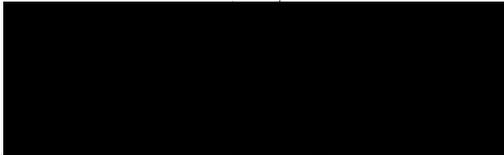
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U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. A3042
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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] Office: Baltimore

Date: JAN 12 2005

IN RE: Applicant: [REDACTED]

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, Baltimore, 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 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 submits additional evidence attesting to her current residence in the State of Maryland, in response to the district director's notice of intent to deny.

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 prior to January 1, 1982, the applicant submitted the following:

- A rental agreement along with bank and checking account statements, all of which show the applicant to be residing in the state of Maryland;
- Two Air Mail envelopes addressed to the applicant in Worcester, Massachusetts, both of which carry stamped 1981 postmark dates;
- An employment letter from [REDACTED] Store Manager of Tim-Buk-Tu Fashions, Worcester, Massachusetts, indicating the applicant was employed at that enterprise from November 1981 through September 1984;
- An affidavit from [REDACTED] indicating he had driven the applicant to Toronto, Canada for the weekend; and

- Another affidavit from [REDACTED] dated December 9, 1990, in which the affiant attests to the applicant having resided in Worcester, Massachusetts from 1981 to 1984, and in Alexandria, Virginia since 1984.

In the district director's notice of intent to deny, it was indicated that the applicant had submitted no evidence that she was a resident of the State of Maryland and, therefore, that the applicant fell within the jurisdiction of the Baltimore District Office of Citizenship and Immigration Services, or CIS. On appeal, the applicant provides the following: page 1 of a Bank Account Statement dated February 20, 2004, page 1 of a checking statement, and the first page of a Rental/Lease agreement. These documents all show the applicant as currently residing within the state of Maryland. The applicant has, therefore, submitted documentation which credibly addresses and resolves any questions raised in the notice of intent regarding the applicant's claim to Maryland residence.

As stated above, the inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. In this case, the applicant has submitted only one resident affidavit and only one employment letter. The affidavit from Mr. [REDACTED] submitted in support of the applicant's claim to continuous residence, indicates the applicant lived in Worcester, Massachusetts from 1981 to 1984, and in Alexandria, Virginia since 1984. However, this affidavit is lacking basic and necessary information or details and, as such, falls far short of containing what such a document should include in order to render it probative for the purpose of establishing an applicant's continuous unlawful residence during the period in question. Specifically, the affiant, Mr. [REDACTED] provides no indication regarding by what means he is knowledgeable regarding the applicant's successive places of residence since 1981. Nor does the affiant indicate by what means he came to be acquainted with the applicant.

While the applicant claims to have been employed from 1981 through May 1988, she submits only one letter attesting to her employment in Worcester, Massachusetts in 1981 to 1984. The applicant has provided no other documentation or third-party statements attesting to her employment since 1984, and no other contemporaneous documentation supporting her claim to continuous residence during the entire period from 1982 to 1988.

Given the applicant's reliance on a minimal amount contemporaneous documentation covering only a small fraction of the period in question, along with affidavits and third-party statements which do not meet basic standards of probative value, it is concluded that she has failed to establish continuous residence in an unlawful status from prior to January 1, 1982 through May 4, 1988, as required.

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