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[REDACTED]

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FILE:

[REDACTED]

Office: DALLAS

Date:

APR 26 2000

MSC 02 019 62373

IN RE:

Applicant:

[REDACTED]

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:

[REDACTED]

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.

Mari Johnson

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 on appeal. The appeal will be sustained.

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 from before January 1, 1982 through December 31, 1983.

On appeal, counsel asserts that the applicant has submitted sufficient documentation establishing continuous residence in the United States from prior to January 1, 1982 through May 4, 1988.

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).

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 applicant 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 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.

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).

The director, in her decision, noted that the applicant had submitted sufficient evidence to establish continuous unlawful residence from 1984 to May 4, 1988. At issue in these proceedings is whether the applicant has presented sufficient documentation to establish continuous unlawful residence since before January 1, 1982 through December 31, 1983. In an attempt to establish said residence, the applicant provided the following evidence:

- An affidavit notarized May 28, 1990 from [REDACTED] of Dallas Texas, who attested to the applicant's residence in the United States since March 1981.
- An affidavit notarized May 29, 1990 from [REDACTED] Texas, who attested to the applicant's residence in the United States since May 1981.
- An affidavit notarized June 7, 1990 from [REDACTED] of Dallas, Texas, who indicated that the applicant was in her employ as a housekeeper and resided in her home at 405 Salidad Loop, Laredo, Texas from December 1980 to March 1984.
- An affidavit notarized April 11, 2003 [REDACTED] of Laredo, Texas, who indicated that the applicant was in her employ as a housekeeper from 1980 to 1984.
- An affidavit notarized March 15, 2003 from [REDACTED] of Laredo, Texas, who attested to the applicant's employment with [REDACTED] and to her residence at 405 Salidad Loop from 1980 to 1984.
- An affidavit notarized June 21, 2003 [REDACTED] of Laredo, Texas, who indicated that she has known the applicant since 1982, and attested to the applicant's residence in Laredo, Texas until 1984. [REDACTED] asserted that she has remained friends with the applicant since that time.
- An affidavit notarized June 27, 2003 from [REDACTED] Texas, who indicated that she has known the applicant since 1982, and attested to the applicant's continuous residence in Laredo and Dallas, Texas since that time. [REDACTED] asserted that she has remained friends with the applicant since that time.

The statements of counsel on appeal regarding the amount and sufficiency of the applicant's evidence of residence have been considered. Furthermore, counsel's contention that the applicant's inability to produce additional evidence of residence for the period in question was the result of the passage of time is considered to be a reasonable explanation in these circumstances.

In this instance, the applicant submitted evidence, including contemporaneous documents, which tends to corroborate her 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 in *Matter of E--M--*, *supra*, when something is to be established by a preponderance of evidence, the applicant only has to establish that the asserted claim 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.