U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, D.C. 20529

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U.S. Citizenship and Immigration Services

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FILE: [redacted] Office: DALLAS Date: AUG 0 9 2006
MSC 02 239 62885

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.

Robert P. Wiemann, Chief
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 he had continuously resided in the United States in an unlawful status from before January 1, 1982 through May 4, 1988.

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. Counsel states that the director has failed to challenge the credibility of the applicant or the authenticity of the documents with specific reasoning.

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).

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

- Affidavits notarized June 23, 1990 from [redacted] of Dallas, Texas, who attested to the applicant's residence in the United States since 1980.

- An affidavit notarized May 7, 2002 from of Dallas, Texas, who attested to the applicant's residence in the United States since 1980.

- A letter dated May 16, 1990 from in Dallas, Texas, which attested to the applicant's employment as a millworker from January 3, 1986 through December 12, 1988. The letter indicated that this information was taken from official company records.

- A letter dated April 10, 1988 from Victor Sandoval, owner of Sandoval Plumbing Company, who indicated that the applicant was employed as a plumber aide from July 28, 1983 through December 23, 1985. Mr. Sandoval asserted because the applicant was paid in cash he did not maintain records.

- A letter notarized March 28, 1987 from in Lubbock, Texas, who indicated that the applicant was employed at a plumber aide from June 21, 1980 to July 23, 1983. The affiant indicated that this information was taken from official company records.

- Letters notarized May 5, 2002 and April 15, 2003 from a former foreman at Stimson Contractors in Garland, Texas, who attested to the applicant's employment at said entity from August 1980 to May 1985. asserted that the applicant's duties consisted of installing wet utilities, and water and storm sewers. further asserted that the owner closed his business in December 1987.

- Letters dated April 20, 1994 and April 10, 2003 from in Mesquite, Texas, who indicated that the applicant was in his employ as a pipe layer and grademan from May 1985 to September 1994. indicated that this information was taken from official company records.

- A letter notarized April 30, 2002 from Grand Prairie, Texas, who indicated that he has known the applicant since 1984 and attested to the applicant's character.

- Affidavits notarized May 3, 1994 and May 8, 2002 from an aunt, of Irving, Texas, who indicated that the applicant resided with her from September 1981 to July 1987.

- An affidavit notarized May 3, 1994 from a manager of The Chatau Apartments in Dallas, Texas, who indicated that the applicant has been a tenant since July 1, 1987.

The director issued a Notice of Intent to Deny dated June 11, 2003, informed the applicant that at the time of his interview, he was requested to provide additional information. The director noted that the applicant "failed to mail in a preponderance of evidence that will help you establish continuous residency in the United States from January 1, 1982 through May 4, 1988. The applicant, in response, submitted copies of documents that were previously provided.

On appeal, counsel asserts, "due to the fact that multiple employment letters have been submitted with overlapping time periods, the credibility of the case is called into question. [The applicant] would like to point out the fact that during this period he was forced by economic hardship to have multiple and/or some part-time jobs."

The statements of counsel on appeal regarding the amount and sufficiency of the applicant's evidence of residence have been considered. In this instance, the applicant submitted evidence, which tends to corroborate his claim of residence in the United States during the requisite period. The applicant provided affidavits from individuals, all whom provide their current addresses and/or telephone numbers and indicate a willingness to testify in this matter. The record contains no evidence to suggest that the director attempted to contact any of the former employers to verify the authenticity of the employment documents submitted. The district director has not established that the information in these affidavits was inconsistent with the claims made on the application, or that such information was false. 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 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.