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U.S. Citizenship  
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Services

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[Redacted]

FILE:

[Redacted]

Office: DALLAS

Date:

**MAY 04 2006**

MSC 02 163 61449

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, Director  
Administrative Appeals Office

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**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 provides copies of previously submitted documents in support of the appeal.

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:

- An affidavit notarized December 5, 1990 and a letter from [REDACTED] who indicated that the applicant was in his employ as a stocker at R& N Market in Riviera Beach, Florida from December 1982 to October 1986.
- An affidavit notarized December 5, 1990 from a family friend, [REDACTED] of Lake Worth, Florida, who attested to the applicant's residence in the United States since 1981.
- Envelopes postmarked on March 10, 1983, March 1984, September 17, 1984, December 14, 1985 and in June 1986 to the applicant's addresses in Riviera Beach and Boca Raton, Florida.
- A notarized affidavit from [REDACTED] of Dallas, Texas, who attested to the applicant's character and to his physical presence in the United States since 1985.
- An affidavit notarized March 5, 2002, from a brother, [REDACTED] of Plano, Texas, who attested to the applicant's departure from Bangladesh to the United States in October 1981, and to the applicant's residence in Riviera Beach, Florida from October 1981 to December 1985. [REDACTED] asserted that the applicant used to visit and telephone him during the time period he [REDACTED] was residing in Wichita, Kansas. [REDACTED] also attested to the applicant's residence in Boca Raton from January 1986 to June 1990. [REDACTED] indicated that during this time period, the applicant used to telephone him and informed him of his whereabouts.
- A sales invoice dated January 5, 1987 in the applicant's name from Omaha Beef Outlet in Sebastian, Florida.
- Two consular fee receipts dated January 4, 1982 and January 9, 1987 from the Embassy of the People's Republic of Bangladesh in Washington, D.C.
- An affidavit notarized July 17, 2001 from [REDACTED] of Wichita, Kansas, who indicated that he has known the applicant since October 1981, and attested to the applicant's physical presence in the United States from October 1981 to December 1982.
- A notarized affidavit from [REDACTED] of Irving, Texas, who asserted that he has personally known the applicant since April 1982, and attested to the applicant's residence in the United States since October 1981.
- Florida Power & Light Company electric bills addressed to the applicant's residences at [REDACTED] Riviera Beach and at [REDACTED] Boca Raton for the periods ending November 18, 1981, December 18, 1981, January 18, 1982, February 18, 1982, March 18, 1982, May 18, 1982, August 18, 1982, July 18, 1982, June 18, 1983, January 18, 1984, January 18, 1985 February 15, 1986, November 15, 1987 and January 15, 1988.

[REDACTED] cannot attest to the applicant's residence in the United States in 1981 because he was residing in Bangladesh and did not immigrate to the United States until January 6, 1982.

Nevertheless, in this instance, the applicant submitted evidence, including 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 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.