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**U.S. Citizenship
and Immigration
Services**

L2

[Redacted]

FILE:

MSC 02 068 62254

Office: CHICAGO

Date: AUG 09 2007

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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, Chicago, Illinois, 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 continuous physical presence in the United States from before January 1, 1982 through May 4, 1988.

On appeal, the applicant asserts that in June 1988, he lost all personal documents due to an apartment fire and, therefore, he has no additional documentation to provide. The applicant 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 must establish his or her continuous physical presence in the United States during the period beginning on November 6, 1986 and ending on May 4, 1988. 8 C.F.R. § 245a.11(c).

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 several affidavits from acquaintances attesting to his residence in the United States

during the requisite period; an affidavit from [REDACTED] a roommate, attesting to the applicant's residence from November 15, 1981 to June 26, 1988 at [REDACTED] Chicago, Illinois; an employment affidavit from [REDACTED] of [REDACTED]'s Grocery Store in Chicago, Illinois for the period February 1983 to April 1987; and an employment affidavit from [REDACTED] of [REDACTED] in Chicago, Illinois for the periods December 1981 to January 1983 and since May 1987.

The director, in his Notice of Intent to Deny noted that that applicant had submitted only affidavits that were not accompanied by other credible documentation. However, pursuant to *Matter of E--M--*, supra, affidavits in certain cases can effectively meet the preponderance of evidence standard.

In this instance, the applicant submitted evidence that corroborates his claim of residence in the United States during the requisite period. The applicant provided affidavits from individuals, all of 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 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.