

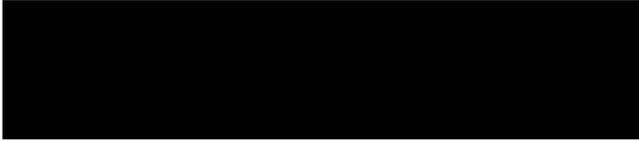
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U.S. Citizenship  
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FILE: [REDACTED] Office: DALLAS  
MSC 02 229 61362

Date: JAN 23 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:

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.

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, Dallas, and is now before the Administrative Appeals Office on appeal. The appeal will be sustained.

The 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. In the Notice of Intent to Deny (NOID), the director stated that additional evidence of residency had been requested of the applicant, but the applicant “failed to mail in a preponderance of evidence that will help [the applicant] establish continuous residency in the United States from January 1, 1982 through May 4, 1985.” In the decision, the director acknowledged that the applicant had “submitted affidavits from friends and relatives” and “employment letters that are not verifiable” as evidence of residency, but concluded that the applicant had “failed to provide evidence of . . . presence during the required time period from January 1, 1982 through May 4, 1988.”

On appeal, counsel contends that the director erred in “ignor[ing] a substantial amount of evidence submitted by the applicant” and asserts that the applicant has presented sufficient evidence to meet his burden of proving continuous residency in the United States in an unlawful status from before 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 petitioner 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 or petitioner 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 or petition.

Although Citizenship and Immigration Services (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).

As evidence of residency, the applicant submitted the following documents:

1. An affidavit dated May 6, 2002 from [REDACTED] of Irving, Texas stating that he knows the applicant as a friend and has seen him in the United States since November 1983.
2. An affidavit dated May 6, 2002 from [REDACTED] of Irving, Texas stating that he knows the applicant as a friend and has seen him in the United States since November 1983.
3. An affidavit dated May 6, 2002 from [REDACTED] of Dallas, Texas stating that he knows the applicant as a friend stating that he knows the applicant as a friend and has seen him in the United States since 1985.
4. An affidavit dated May 5, 2002 from [REDACTED] of Dallas, Texas stating that he knows the applicant as a friend and has seen him in the United States since April 1984.
5. An affidavit dated May 3, 2002 from [REDACTED] of Irving, Texas stating that he knows the applicant as a friend and has seen him in the United States since October 1985.
6. An affidavit dated May 2, 2002 from [REDACTED] of Dallas, Texas stating that he knows the applicant as a friend and has seen him in the United States since October 1985.
7. An affidavit dated April 30, 2002 from [REDACTED] of Fort Worth, Texas stating that he worked with the applicant and has known him since 1984.
8. An affidavit dated April 29, 2002 from [REDACTED] of Dallas, Texas stating that he knows the applicant as a friend and has seen him in the United States since 1983.
9. An affidavit dated April 29, 2002 from [REDACTED] of Dallas, Texas stating that he knows the applicant as a friend and has seen him in the United States regularly since November 1982.
10. An affidavit dated February 16, 1991 from [REDACTED] of Irving, Texas stating that he knows the applicant as a friend and has seen him in the United States regularly since November 1981.
11. An affidavit dated December 5, 1990 from [REDACTED] stating that he knows the applicant as a friend and has seen him in the United States regularly since October 1981.

12. An affidavit dated October 15, 1990 from [REDACTED] of Irving, Texas stating that he knows the applicant as a friend and has seen him in the United States regularly since November 1981.
13. An affidavit dated August 13, 1990 from [REDACTED] of Fort Worth, Texas indicating that the applicant lived with the affiant at [REDACTED], Fort Worth, Texas from October 20, 1981 to July 20, 1985.
14. An affidavit dated August 6, 1990 from [REDACTED] of [REDACTED] stating that the applicant worked on a "labor contract" doing "car cleanups and repairs on some of [the affiant's] properties" from November 1981 to April 1984.
15. Letter from [REDACTED] pastor of [REDACTED] in Dallas, Texas, indicating that the applicant has been an active member of the parish since 1985.
16. A letter dated November 1, 1990 from [REDACTED] of [REDACTED] Roof attesting to the applicant's employment by the company from December 1984 to September 1985.
17. The birth certificate of the applicant's son, born in Dallas on November 24, 1985.
18. The baptismal certificate of the applicant's son showing he was baptized on December 20, 1986 in Dallas.
19. The applicant's marriage certificate showing he was married in Dallas on June 20, 1986 and resided at [REDACTED] in Irving, Texas at the time.
20. Letter from [REDACTED] apartment manager, verifying that the applicant resided at [REDACTED] from October 23, 1985 through January 12, 1987.
21. Postmarked envelopes dated between 1985 and 1988 bearing the applicant's name and address in the United States.
22. The birth certificate of Mr. [REDACTED] daughter showing that she was born in Dallas on October 28, 1987.
23. Pay statements issued to Mr. [REDACTED] covering employment from 1986 to 1987.
24. The applicant's Form 1099 for 1985.

The foregoing evidence is sufficient to demonstrate the applicant's continuous residency in the United States from before January 1, 1982 through May 4, 1988. The director did not specify any deficiencies in the evidence submitted by the applicant, other than stating that the employment letters were not amenable to verification. The AAO finds that the evidence submitted by the applicant is amenable to verification and is consistent with other evidence in the record. Viewed in its totality, the evidence presents a consistent account of the applicant's residency in the United States from before January 1, 1982 through May 4, 1988.

The applicant has met his burden of proving continuous residence in an unlawful status in the United States from before January 1, 1982 through May 4, 1988. Accordingly, the applicant has established eligibility to adjust status to Legal Permanent Resident status under section 1104 of the LIFE Act.

**ORDER:** The appeal is sustained. The application is returned to the director for adjudication consistent with the foregoing.