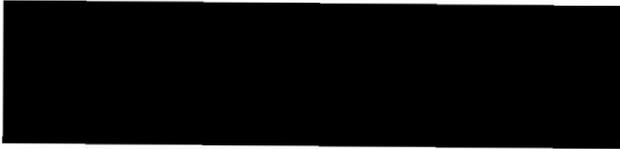


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FILE: [REDACTED] Office: WASHINGTON, D.C. Date: **MAY 04 2006**  
MSC 02 179 60368

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:



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, Washington, D.C., 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 entered the United States prior to January 1, 1982, and continuously resided in the United States from November 6, 1986 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 additional evidence 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:

- Two envelopes postmarked in April and July 1984 and addressed to the applicant at an address in Alexandria, Virginia.

- An envelope postmarked in March 1985 and addressed to the applicant at an address in Alexandria, Virginia.
- Two envelopes postmarked in January and April 1988 and addressed to the applicant at addresses in Alexandria and Centreville, Virginia.
- A letter dated October 9, 1991 from [REDACTED] assistant manager of LAM Associates, Inc. in Washington, D.C., who indicated that the applicant was employed as a porter from December 1981 to November 1986.
- A letter dated September 9, 1991 from [REDACTED] office manager of Data Solutions in Springfield, Virginia who indicated that the applicant has been employed as a porter since January 17, 1987.
- A letter dated March 23, 2003 from [REDACTED] district pastor of The Church of Pentecost (USA Inc.) in Woodbridge, Virginia who indicated that the applicant has been a full-time member since 1992.
- An affidavit notarized March 24, 2003 from [REDACTED] of Alexandria, Virginia who indicated that she provided the applicant accommodations at the time of her arrival in the United States in October 1981.
- An additional affidavit notarized October 19, 2004 from [REDACTED] who indicated that she met the applicant in October 1981 at the Greyhound bus station in Washington, D.C. [REDACTED] further indicated that the applicant was waiting for a friend who did not show up and, therefore, upon the applicant's request, the applicant went home with her for one night. [REDACTED] said that the next day, the applicant's friend, [REDACTED] came to her home to get the applicant.
- A letter dated October 11, 2004 from [REDACTED] district pastor of The Church of Pentecost (USA Inc.) in Temple Hill, Maryland who indicated that the applicant has been a cell member since 1985 and a full-time member since 1992.
- An affidavit notarized October 18, 2004 from [REDACTED] of Alexandria, Virginia who attested to the applicant's departure from Ghana in 1981. [REDACTED] indicated that upon her arrival in the United States in 1984, she reconnected with the applicant through a mutual friend, [REDACTED].
- An affidavit notarized October 18, 2004 from [REDACTED] who indicated that she met the applicant in December 1981 at a holiday party held at [REDACTED]'s house.

On appeal, counsel submits an affidavit from the applicant in which she states in part:

The first time I came to the U.S. was in October 1981. I have remained here ever sense [sic]...We (the applicant and her male friend) boarded a plane in Accra in early October 1981 and arrived in New York the following day...When we arrived in New York, my boyfriend walked ahead of me and talked with the immigration officials. He had all of my

paperwork with him, and he took care of getting me through the INS line. I was asked no questions by INS and had no problem going through the line. . . My boyfriend had arranged for me to stay with another friend of his, [REDACTED]. [REDACTED] lived in Alexandria, Virginia. My boyfriend had a driver to drive me to Washington, D.C., but [REDACTED] never arrived to pick me up. . . I lived with [REDACTED] from October 1981 to 1989 in Washington, D.C. . . . In December of 1991, [REDACTED] was tragically killed; and I was notified of his death when the police called my friend, [REDACTED] and informed her.

The applicant's statement on appeal has been considered and is plausible. The record contains no evidence to suggest that the director attempted to contact any of the applicant's employers to verify the authenticity of the employment documents submitted.

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 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.