

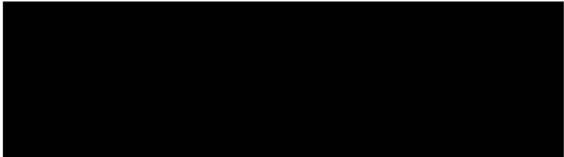
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U.S. Citizenship
and Immigration
Services

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FILE: [redacted] Office: CHICAGO Date: **MAY 25 2006**
MSC 02 245 60208

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 "D. G. 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 dismissed.

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 since before January 1, 1982 through May 4, 1988.

On appeal, counsel asserts that the director's decision is against the weight of the evidence and that the applicant was "denied [the] opportunity after the interview, to present additional evidence before the decision was made." On appeal, the petitioner submitted a statement from the pastor of the Telugu Methodist Church.

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).

The applicant stated that his first unlawful entry into the United States was in June 1979, when he entered without inspection.

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:

1. A May 28, 2002 sworn statement from [REDACTED] in which he stated that he has known the applicant since 1981, after they met in a restaurant.
2. A May 30, 2002 sworn affidavit from [REDACTED] a friend of the applicant, who stated that he has known the applicant since 1981, and that they met at "a function."
3. A May 30, 2002 sworn affidavit from [REDACTED] who stated that he is a friend of the applicant who he met through a friend. Mr. [REDACTED] stated that he has known the applicant since 1981.
4. A May 29, 2002 sworn affidavit from [REDACTED] who stated that he is a friend of the applicant whom he met through another friend. Mr. [REDACTED] stated that he has known the applicant since 1981.
5. An October 18, 1990 sworn affidavit from [REDACTED] who stated that he has known the applicant since 1986 as a friend and roommate.

On appeal, the applicant submits a May 5, 2003 statement from Reverend [REDACTED] the pastor of the [REDACTED] who stated that he has known the applicant since 1981 and that he attends church services on special occasions.

As discussed above, the adjudication of the applicant's claim is a measure of both the quantity and quality of the evidence submitted. *See* 8 C.F.R. § 245a.12(e). The applicant has submitted five affidavits of residency. While affidavits in certain cases can effectively meet the preponderance of evidence standard, the applicant has submitted no contemporaneous evidence or independent or objective affidavits to support his claim. The letter from Reverend [REDACTED] does not include specific details as to the pastor's knowledge of the applicant to conclude that it is more likely than not that the applicant resided continuously in the United States since 1981. Further, although the applicant stated that he worked at one location for over six years, he submitted no evidence of employment during the required time period.

Given the absence of any contemporaneous documentation and the minimum documentation submitted, it is concluded that the applicant has failed to establish continuous residence in the U.S. for the required period.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.