



U.S. Citizenship
and Immigration
Services

L2



FILE:



Office: Los Angeles

Date:

IN RE:

Applicant:



1/12/04

PETITION: 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.

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, Los Angeles, and is now before the Administrative Appeals Office (AAO) 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, the applicant submits a separate statement, in which he asserts that based on his discussions with certain officers at the Los Angeles District Office of Citizenship and Immigration Services (CIS), he was given to understand that his documentation was sufficient to establish continuous residence in the U.S. since prior to January 1, 1982 through May 4, 1988. However, the applicant's account of what may or may not have transpired in the course of his discussions with CIS officers cannot be confirmed or rebutted based on the record of proceedings.

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. 8 C.F.R. § 245a.12(e). When something is to be established by a preponderance of evidence it is sufficient that the proof only establish that it is *probably* true. See *Matter of E-- M--*, 20 I&N Dec. 77 (Comm. 1989). Preponderance of the evidence has also been defined as "evidence which as a whole shows that the fact sought to be proved is more probable than not." Black's Law Dictionary 1064 (5th ed. 1979).

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).

In an attempt to establish continuous unlawful residence since before January 1, 1982, as claimed, the applicant furnished the following evidence:

- A Form I-687 Application for Status as a Temporary Resident under Section 245A of the Immigration and Nationality Act, which was signed by the applicant on May 15, 1990;
- A form affidavit from [REDACTED], who attests to the applicant having resided in Los Angeles, California, since January 1980. The affiant bases her knowledge on her friendship with the applicant;

- A form affidavit from [REDACTED] who attests to the applicant having resided in the U.S. as follows: Compton, California from 1981 to 1990; Los Angeles, California from 1990 to 1998; and Corona, California since 1998. The affiant bases his knowledge on having maintained a friendship with the applicant after meeting him at a party;
- An affidavit from [REDACTED] of [REDACTED] California, attesting to the applicant having worked for that concern since April 1987;
- A corroborative affidavit from [REDACTED] attesting to having known the applicant since 1981. The affiant indicates the applicant has resided at 15406 White Avenue, Compton, California, since he first came to the U.S. The affiant also states that the applicant departed the U.S. on June 5, 1987 and returned June 25, 1987. The affiant bases her knowledge on having been the applicant's landlord;
- A photocopy of a letter from [REDACTED] who indicates he is a self-employed gardener, and attests to having employed the applicant as a laborer from February 1986 to June 1986;
- A photocopy of a form affidavit from [REDACTED] who indicates he is a self-employed gardener. According to the affiant, the applicant assisted him with gardening from January 1981 to December 1982;
- An employment verification letter from [REDACTED] Personnel Assistant at [REDACTED] Inc., attesting to the applicant having been employed at that firm as a press operator since March 28, 1983;
- An affidavit from [REDACTED] who attests to having been acquainted with the applicant since 1981. The affiant indicates the applicant has been performing yard work for her since that time;
- An affidavit from [REDACTED] attesting to having known the applicant since January 1981. The affiant indicates he first met the applicant at a family reunion and asserts that they have been friends and co-workers since that time; and
- An employment affidavit along with a separate letter from [REDACTED] Service, both of which attest to the applicant having worked for that firm since April 1987.

In this instance, the applicant submitted at least ten affidavits attesting to both his residence as well as his employment in the U.S. during the period in question. Affidavits in certain cases can effectively meet the preponderance of evidence standard. As stated on *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, including affidavits furnished by affiants who have provided their current addresses and phone numbers and have indicated their willingness to come forward and testify in this matter if necessary, 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 establishes, 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.