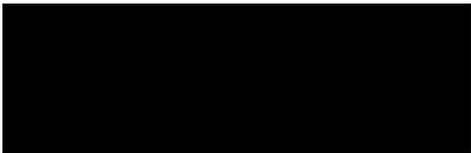




U.S. Citizenship
and Immigration
Services



FILE: [REDACTED] Office: Los Angeles Date: 09/11/2004

IN RE: Applicant: [REDACTED]

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

identifying data deleted to
prevent clearly unwarranted

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 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, the applicant submits additional evidence in support of his claim to continuous residence in the U.S. during the period in question.

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).

When something is to be established by a preponderance of the evidence it is sufficient that the proof establish that it is probably true. *See Matter of E-- M--*, 20 I&N Dec. 77 (Comm. 1989).

Although 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).

In an attempt to establish continuous unlawful residence since prior to January 1, 1982, the applicant submits the following:

- A handwritten affidavit from [REDACTED] who attests to the applicant having departed the U.S. for India on June 6, 1983 and having returned to the U.S. on July 10, 1986; and
- Affidavits from [REDACTED] all of whom attest to having known the applicant since 1982. The affiants also attest to the applicant having resided in Glendale, California from June 1997 to July 2003, and in Los Angeles, California since July 2003.

As stated above, the inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. In this case, the applicant has submitted no contemporaneous documentation whatever to establish presence in the U.S. from the time he claimed to have commenced residing in the U.S. through May 4, 1988. In light of the fact that the applicant claims to have continuously resided in the U.S. since July 1981, this inability to produce contemporaneous documentation of residence raises serious questions regarding the credibility of the claim.

The affidavits submitted by the applicant in support of the application are lacking basic and necessary information or details and, as such, fall far short of containing what such a document should include in order to render it probative for the purpose of establishing an applicant's continuous unlawful residence during the period in question. The previously-cited affidavit from [REDACTED] which attests to the applicant's 1983 departure from the U.S., fails to indicate the basis for the affiant's knowledge of this information. The affidavits from [REDACTED] and [REDACTED], while attesting to having known the applicant since 1982, fail to specify whether or not the applicant was actually residing the U.S. at the time they became acquainted with him.

Nor do the affiants provide any information regarding the *basis* for their acquaintance with the applicant or how they came to be aware of the applicant's residence in the U.S. Moreover, the three affidavits list the applicant's residences only since *June 1997*, while failing to include any *prior* residences, despite their having attested to having known the applicant since 1982. In this connection, it is noted that the applicant has submitted no evidence to support his claim to having entered and resided continually in the U.S. *prior to* January 1, 1982. It should also be mentioned that all three affidavits contain language which is identical or nearly identical. Such documents appear to have been prepared *for* the affiants rather than *by* the affiants, and do not have the appearance of originating from the affiants' personal knowledge. In addition, the affiants have not provided their phone numbers, thereby failing to provide a convenient means by which they might be contacted for purposes of further verification.

Given the absence of contemporaneous documentation pertaining to this applicant, along with the applicant's reliance on affidavits which do not meet basic standards of probative value, it is concluded that he has failed to establish continuous residence in an unlawful status from prior to January 1, 1982 through May 4, 1988, as required.

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