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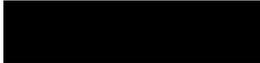
U.S. Citizenship  
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**DEC 21 2004**

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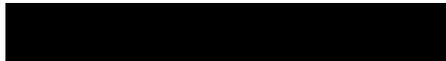


Office: Dallas

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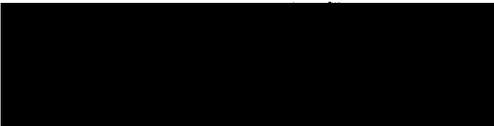
IN RE:

Applicant:



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:



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

**DISCUSSION:** The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the Interim District Director, Dallas, 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 she had continuously resided in the United States in an unlawful status from before January 1, 1982 through May 4, 1988.

On appeal, counsel for the applicant asserts that the district director, in denying the application, has failed to consider extensive documentation serving to establish by a preponderance of the evidence that the applicant has continuously resided in the U.S. from prior to January 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. 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 (5<sup>th</sup> 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:

- An affidavit from [REDACTED] attesting to having known the applicant since May 15, 1985, when the applicant commenced her employment at American Free Form Industries in Irving, Texas, where the affiant had been working;
- An affidavit from [REDACTED] attesting to having known the applicant since December 12, 1981, when the applicant visited the affiant's aunt who resided in the same apartment as the affiant;
- An affidavit from [REDACTED] attesting to having known the applicant since mid-December 1981, when the applicant moved into the same apartment complex as the affiant;

- A photocopy of a handwritten statement from [REDACTED] attesting to having known the applicant since December 1984, when the affiant and applicant were co-workers at several sewing companies;
- An affidavit from [REDACTED] who attests to having known the applicant since December 1981, at which time the applicant attended a party given by a neighbor of the affiant;
- A handwritten affidavit from [REDACTED] who indicates she is the applicant's mother and attests to the applicant having arrived in the U.S. from Mexico on December 10, 1981;
- An affidavit dated November 29, 2001 from [REDACTED] who attests to having known the applicant for 16 years since she and the applicant were co-workers at the same factory;
- A letter from [REDACTED] of Haber Fabrics Corporation, Irving, Texas, who asserts that the applicant worked at that firm as a shipping clerk and as a receiving clerk from January 18, 1982 to June 23, 1982, and from September 21, 1987 to November 18, 1988;
- An affidavit from [REDACTED] apartment manager, attesting to the applicant having resided at 1130 Perry Rd., Irving, Texas, from October 23, 1985 to January 12, 1987;
- An affidavit from [REDACTED] property manager, attesting to the applicant having resided at 232 N. Irving Heights, Apt. 118, from January 9, 1987 to March 9, 1988, and at 1520 E. Pioneer, Apt. 204, since March 10, 1988;
- A photocopy of a 1985 W-2 Wage and Tax Statement from Independent Sandwich Company, Inc., made out to the applicant;
- An original 1986 W-2 Wage and Tax Statement from American Freeform Industries made out to the applicant;
- A letter of [REDACTED] personnelist at American Freeform Industries, who indicates that according to company records, the applicant had been employed as follows: May 1985 through August 1985, April 1986 through July 1986, December 1986 through March 1987; April 1987 through September 1987; and February 1988 through March 1988;
- A letter from [REDACTED] of Our Lady of Lourdes, Dallas, Texas, who states the applicant has been a regular member of that congregation since 1986;
- A birth certificate dated March 5, 1988 from the Bureau of Vital Statistics of the Texas Department of Health, indicating the applicant's daughter was born at Parkland Memorial Hospital on October 29, 1987;

- A certificate of baptism from Our Lady of Lourdes Church, Dallas, Texas, indicating the applicant's son was born in Dallas, Texas on November 24, 1985 and baptized on December 20, 1986; and
- Photocopies of 1986 and 1987 earnings statements pertaining to the applicant [no employer is indicated on the photocopies].

In this instance, the applicant submitted no less than twelve [12] affidavits and third-party statements attesting to her residence and 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 submitted by persons who have provided their addresses as well as their current phone numbers and have indicated a willingness to testify in this matter, may be accorded substantial evidentiary weight and are sufficient to meet the applicant's burden of proof of residence and employment in the United States for the requisite period.

It should also be noted that, unlike many applicants for permanent residence under the LIFE program, the present applicant has actually provided considerable contemporaneous evidence of residence consisting of earnings statements, employment records, W-2 forms, birth certificates and certificates of baptism.

The affidavits provided by the applicant, along with considerable contemporaneous evidence, support 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.