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U.S. Department of Homeland Security  
20 Massachusetts Ave., N.W., Rm. A3042  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

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22

FILE:



Office: Los Angeles

Date: DEC 22 2004

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:

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

**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 she had continuously resided in the United States in an unlawful status since before January 1, 1982 through May 4, 1988.

On appeal, the applicant asserts that, due to her undocumented immigration status in the U.S. along with her lack of a Social Security number during the years from 1981 to 1988, she has been unable to submit additional evidence of residence 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 before January 1, 1982, as claimed, the applicant furnished the following evidence:

- An affidavit from [REDACTED] who attests to having known the applicant since 1983, based on the affiant's having been an acquaintance and a landlord of the applicant.
- An employment affidavit from [REDACTED] who attest to the applicant having performed household duties for the affiants from 1982 through June 1988;
- Three separate employment letters, all of which appear to relate to the applicant's claim to have worked at Cosmetic Laboratories of America since 1988:
  - An employment letter from [REDACTED] Human Resources Supervisor, [REDACTED] Company/Cosmetic Laboratories of America, Chatsworth, California. While the writer indicates the applicant was officially hired as a permanent, full-time machine operator on January 28,

1989, she indicates that the applicant may have been working at the firm in a temporary capacity for at least a year prior to her official date of hire;

- An employment letter from [REDACTED], Payroll Administrator, Cosmetic Laboratories of America [REDACTED]. The writer states the applicant has been employed since June 11, 1990, when she was hired as a machine operator in the firm's Production Department;
- An employment letter from [REDACTED], Payroll/Personnelist, Cosmetic Laboratories of America, indicating the applicant is a full-time employee in the firm's Production Department, having commenced her employment on December 28, 1989;
- Affidavits from [REDACTED], both of whom attest to the applicant having resided in the U.S. since May 1981;
- An affidavit from [REDACTED] who attests to the applicant having departed the U.S. on vacation to Mexico on May 1, 1987 and having returned on June 11, 1987;
- An affidavit from [REDACTED] who attests to having employed the applicant as babysitter from April 1983 to January 1986;
- A handwritten affidavit from [REDACTED] who attests to the applicant having provided babysitting services for the affiant from 1987 to July 1990;
- Affidavits from [REDACTED] both of whom attest to the applicant having resided in Sepulveda, California since May 10, 1981; and
- An affidavit from [REDACTED], owner of the premises at [REDACTED] California, who attests to the applicant having resided at that address since May 1981.

In the notice of intent to deny, the district director determined the documentation submitted failed to establish the applicant's residence in the U.S. from prior to January 1, 1982 to May 4, 1988. In rendering this determination, the district director noted an apparent inconsistency in the applicant's documentation. On her I-687 application, the applicant listed American Cosmetics as her employer and indicated she had worked for that firm since February 1987. However, the record includes an employment letter from [REDACTED], a representative of that company, indicating the applicant did not begin her employment there until December 28, 1989.

In response to the notice of intent and, later, on appeal, the applicant stated that she began work at Cosmetic Laboratories of America in 1988, and that she continued to be employed by that concern. The applicant's claim, on appeal, that she had worked at this firm prior to December 28, 1989 is supported by the letter from [REDACTED] another official representing the same employer. In her correspondence, [REDACTED] indicates that the applicant was officially hired on January 28, 1989, but acknowledges that the applicant may actually have been working at that firm for at least a year prior to her official date of hire in a temporary capacity. It is not clear why the applicant has attempted to submit all three separate letters from different individuals representing the same employer, Cosmetic Laboratories of America. Nevertheless, the letters are all on official company letterhead stationery signed by officials connected with the firm's human resources or

payroll departments. As such, the employment letters provided by the applicant do *not* appear to be other than genuine. While several of the letters list different hiring dates for the applicant, the dates indicated occur within approximately a year of one another. Moreover, all three letters are congruent in identifying the applicant as a full-time employee in the company's Production Department. It is, therefore, concluded that the applicant, on appeal, has satisfactorily resolved any perceived discrepancy cited in the notice of intent as to the date she commenced her employment at Cosmetic Laboratories of America.

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 applicant in this case has provided no fewer than thirteen (13) affidavits and third-party statements affirming her residence as well as her employment in the U.S. during the period in question. Such affidavits, furnished not only by acquaintances but by professionals who indicate their willingness to come forward and testify in this matter if necessary, may be accorded substantial evidentiary weight are sufficient to meet his burden of proof of residence in the United States for the requisite period. The applicant, on appeal, asserts that, due to her undocumented immigration status in the U.S. along with her lack of a Social Security number during the years from 1981 to 1988, she has been unable to submit additional evidence of residence during the period in question. Under these circumstances, her apparent inability to provide actual contemporaneous documentation of her residence is not found unduly implausible.

The evidence 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.