

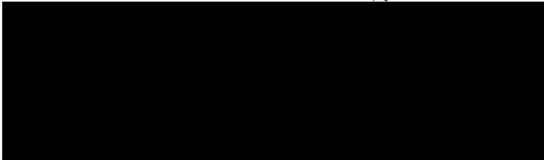
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U.S. Department of Homeland Security
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FILE:



Office: LOS ANGELES

Date:

DEC 27 2004

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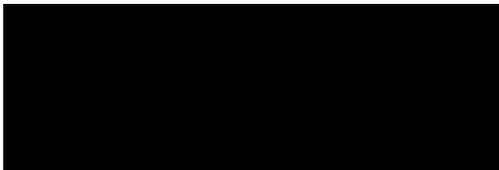
Applicant:



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:



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.

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

On appeal, counsel argues that the applicant's testimony and supporting documents have not been examined in accordance with law and procedure.

It is noted that the director, in denying the application, did not address the evidence furnished initially, and in response to the Notice of Intent to Deny, and did not render a determination as to its credibility. As such, the documentation throughout the application process will be considered on appeal.

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 through May 4, 1988, the applicant provided the following evidence throughout the application process:

- Notarized affidavits from [REDACTED] who indicated that they met the applicant at a Hindu ceremonial wedding in Inglewood, California, and have personally known him since November 1981.
- Two affidavits from [REDACTED] who indicated that she has personally known the applicant and of his residence in Los Angeles, California since January 1982. The affiant further indicated that the applicant is a Hindu priest and has seen him at many religious functions and weddings. The affiant provided a list of the applicant's current and former residences throughout Los Angeles County.
- Two letters dated May 27, 2003 and August 12, 2003 from [REDACTED], president of Sanatan Dharam Ramayan Mandali in Hawthorne, California who asserted that the applicant has been a Hindu priest and a member of its organization since July 1981 and April 1981 respectively. [REDACTED] provided a list of the applicant's current and former residences throughout Los Angeles County.

- A letter from [REDACTED] president of Los Angeles Geeta Ramayan Mandali in Los Angeles, California who indicated that the applicant has been a member of its organization since 1981. Mr. [REDACTED] provided a list of the applicant's current and former residences throughout Los Angeles County since 1981.
- A notarized affidavit from [REDACTED] who indicated that he has known the applicant since September 1981 when the applicant purchased a pair of shoes from him. [REDACTED] asserted that he stays in touch with the applicant by telephone and visits each other.
- Notarized affidavits from [REDACTED] who indicated that they have personally known of the applicant's residence in the United States since April 1981. The affiants asserted that the applicant is a Hindu priest and regularly attends meetings, congregations, and prayers held at Los Angeles Geeta Ramayan Mandali.
- Two notarized affidavits from Urmila Devi Singh, who indicated that she has personally known of the applicant's residence in the United States since July 1981. The affiant asserted that the applicant is a Hindu Priest and performs prayers at the temple and at members' homes and regularly attends meetings, congregations, and prayers held at the temple. The affiant provided a list of the applicant's current and former residences in the United States.
- A notarized affidavit from a representative of Unocal 76 Gas Station in Studio City, California attesting to the applicant's employment from July 1981 to April 1985.
- Two notarized affidavits from [REDACTED] who indicated that he has personally known of the applicant's residence and employment in the United States since April 1981. [REDACTED] asserted that the applicant is a Hindu priest and regularly attends meetings, congregations, and prayers held at Los Angeles Geeta Ramayan Mandali. [REDACTED] further asserted that he occasionally picked up the applicant at his place of employment and drove him to their meetings and services at the temple. Mr. [REDACTED] provided a list of the applicant's current and former residences in the United States.
- A notarized affidavit from [REDACTED] who indicated that he rented a residence located in Los Angeles, California to the applicant from May 1981 to September 1985.
- A notarized affidavit from [REDACTED] who indicated that he has personally known the applicant since May 1981 and provided a list of the applicant's former residences from 1981 through 1990. [REDACTED] based his knowledge through personal relations.

In this instance, the applicant submitted at least several affidavits attesting to his 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 many of whom are willing to testify in this matter, 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 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.