



U.S. Citizenship  
and Immigration  
Services

[REDACTED]

*[Handwritten signature]*

FILE:

[REDACTED]

Office: Los Angeles

Date:

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:

[REDACTED]

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.

*[Handwritten signature]*

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 for the applicant asserts that the applicant has been physically present in the U.S. since 1981.

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).

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 affidavit from [REDACTED] who attested to the applicant having resided in Los Angeles, California, since March 1982. The affidavit is accompanied by a written statement in which the affiant indicated that her knowledge is based on the fact that she was a neighbor and former co-worker of the applicant at Sanwa Foods. The affiant also stated that the applicant had performed yard work and painting for her;
- An affidavit from [REDACTED] attesting to the applicant having resided in Los Angeles since June 1985. The affiant bases her knowledge on the applicant having performed yard work and painting for her and her family;
- A written statement from [REDACTED] attesting to having known the applicant since 1984, when he performed painting and yard for her ;
- A form affidavit from [REDACTED] attesting to having driven the applicant to San Ysidro on December 20, 1987 and to having picked him up at San Ysidro on January 15, 1988;

- A form affidavit from [REDACTED] in El Monte, California, who attested to the applicant having continuously resided in the U.S. since 1981, and to having employed the applicant as a helper since 1981;
- A statement from [REDACTED] who attests to the applicant having come to Los Angeles from Mexico in 1981. The affiant indicates he has known the applicant since the time they were children in Mexico;
- A statement from [REDACTED] who attests to having met the applicant in Baldwin Park, California, in 1983 and to having been acquainted with the applicant since that time;
- A statement from [REDACTED] who attests having known the applicant since 1981 and to the applicant having continuously resided in the U.S. since that time;
- An affidavit from [REDACTED] attesting to having known the applicant since 1981 and to the applicant having continuously resided in the U.S. since that time;
- A form affidavit from [REDACTED] who attests to having known the applicant since July 1986 and to the applicant having resided in Los Angeles since that time; and
- A form affidavit from [REDACTED] who attested to having known the applicant since April 1986 and to the applicant having resided in Los Angeles since that time.

Counsel for the applicant, on appeal, asserts that, at the time the applicant entered the U.S. in 1981, he was only a 14-year-old youth. Counsel further asserts that the applicant was unable to attend school. As a result of his undocumented immigration status, his employers paid him in cash only and that he is, therefore, unable to submit evidence of his employment such as check stubs, earnings statements, W-2 tax forms or Social Security records. Under these circumstances, the applicant's inability to submit additional contemporaneous documentation of residence is not found unduly implausible. The regulations at 8 C.F.R. § 245a.2(d) provide a list of documents that may establish residence and specify that "any other relevant document" may be submitted.

In this instance, the applicant submitted at least eleven affidavits attesting to his residence in the U.S. during the period in question. The director has not established that the information in the affidavits was inconsistent with the claims made on the application, or that it was false information. Furthermore, 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 supports, 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.