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U.S. Citizenship
and Immigration
Services

LA

FILE:

Office: Los Angeles

Date: JUL 20 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:

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, California, and is now before the Administrative Appeals Office (AAO) 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 reaffirms his claim of continuous residence in this country since 1981. The applicant indicates that the two affidavits he is now providing represent the only evidence of his residence in the United States during his early years in this country after 1981. The applicant submits two affidavits of residence in support of his 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. 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 the 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. *See* 8 C.F.R. § 245a.2(d)(3)(vi)(L).

On his LIFE Act application, the applicant claimed that he first entered the United States in 1981, and continuously resided in this country since such date. While the applicant has submitted sufficient contemporaneous and independent evidence to demonstrate continuous residence in the United States in the period from August 1987 through the present date, no evidence was provided to prove continuous unlawful residence in this country from prior to January 1, 1982, through August 1987.

On appeal, the applicant submits two affidavits of residence signed by [REDACTED] and [REDACTED] respectively. In his affidavit, [REDACTED] states that the applicant lived at his home in Los Angeles, California, from March 1987 to March 1989. [REDACTED] indicates that the applicant did not possess any receipts relating to his payment of utilities for this period because utilities were included in his rent. In the other affidavit, [REDACTED] declares that the applicant had resided at his home in Los Angeles, California, from June 1981 until June 1986. [REDACTED] indicates that the applicant did not possess any receipts relating to his payment of utilities for this period because utilities were included in his rent.

While the affiants attempted to put forth an explanation as to why the applicant did not possess utility receipts for the periods he resided with them, no explanation has been advanced as to why he has not provided any other contemporaneous evidence to demonstrate residence in this country in the period from prior to January 1, 1982, to August 1987. Although the affiants' statements may be reasonable in explaining why he does

possess any utility receipts for this period, such statements cannot explain why the record is completely devoid of other independent and contemporaneous documentation to corroborate the applicant's claim of residence in the United States for this period. In addition, neither affiant provided any testimony that the applicant resided in this country in the period from June 1986 to March 1987.

As stated above, the inference to be drawn from the documentation provided shall depend on the *extent* of the documentation. The extremely minimal evidence furnished cannot be considered extensive, and in such cases a negative inference regarding the claim may be made as stated in 8 C.F.R. § 245a.2(12)(e).

The applicant in this case asserts that he has resided continuously in the United States since 1981 through the present date. The applicant has provided ample independent and contemporaneous documentation to corroborate his claim of residence in this country from August 1987 through the present date. Nevertheless, he has only been able to provide two affidavits in support of his claim of residence in the period from prior to January 1, 1982 to August 1987. It should also be emphasized that while the applicant claimed to be employed by at least three different employers in the period from prior to January 1, 1982 through 1987, he has submitted no documentation from any of these purported employers.

In *Matter of E-- M--*, *supra*, the applicant had established eligibility by submitting (1) the original copy of his Arrival-Departure Record (Form I-94), dated August 27, 1981; (2) his passport; (3) affidavits from third party individuals; and (4) an affidavit explaining why additional original documentation is unavailable. Unlike the alien in *Matter of E-M-*, the present applicant does not offer any explanation as to *why* he has been unable to provide additional evidence to support his claim.

Given the absence of any contemporaneous documentation for the period since prior to January 1, 1982 through 1987, along with the applicant's complete and total reliance upon two affidavits, it is concluded that he has failed to establish continuous residence in the United States for this period. The applicant has, therefore, failed to establish that he resided in continuous unlawful status in the United States from before January 1, 1982 through May 4, 1988, as required under section 1104(c)(2)(B) of the LIFE Act. Given this, he is ineligible for permanent resident status under section 1104 of the LIFE Act.

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