

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services

U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

LA

[Redacted]

FILE:

[Redacted]

Office: Chicago

Date:

JUN 18 2004

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.

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, Chicago, 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 asserts that the applicant has met his burden of proof by a preponderance of evidence of having resided continuously in the U.S. in an unlawful status from prior to January 1, 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).

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 has furnished the following evidence:

- An employment affidavit from [REDACTED], manager of [REDACTED], Bensenville, Illinois, attesting to having employed the applicant from September 1981 through February 1982;
- An affidavit from [REDACTED] who attested to having known the applicant for a period of 14 years and having employed the applicant from March 1982 to August 1983;
- A letter from [REDACTED], Human Resources Director of [REDACTED] in Chicago, Illinois, who attests to having employed the applicant from September 15, 1983 to March 15, 1984;
- An *original* of the applicant's student identification card from the Chicago Urban Skills Institute, indicating a December 23, 1983 receipt date on the reverse side of the card;
- A photocopy of a residential lease agreement pertaining to the applicant, the terms of which cover the period from January 24, 1985 to September 30, 1985;

- A photocopied birth certificate indicating that the applicant's daughter was born on September 30, 1985 at [REDACTED] Chicago, Illinois;
- Employment-based group health insurance benefits statements dated January 23, 1986 and April 30, 1986, respectively, from the [REDACTED] which designate the applicant as employee and the applicant's spouse as patient; and
- A photocopied money order from the applicant dated October 7, 1986.

The director denied the applicant because the evidence submitted by the applicant failed to establish the applicant had continuously resided in the U.S. in an illegal status from January 1, 1982 through May 4, 1988 and specifically, during the period from January 1, 1982 to 1984. In support of his claim to continuous residence in the U.S. from January 1, 1982 to May 4, 1988, the applicant has included not only acquaintance and employment affidavits, but a variety of *contemporaneous* evidence as well, including an original school identification card in the applicant's name, birth certificates, lease agreements, rent receipts and money order slips. Moreover, the district director in this case has *not* established that any of the information contained in the affidavits was inconsistent with the claims made on the application, or that such information was false.

The residence and employment affidavits proffered by the applicant, along with accompanying photocopies of contemporaneous documents, appear to 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.