

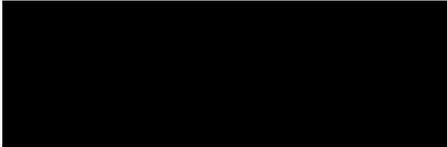
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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LA

FILE:  Office: Los Angeles

Date: JUN 21 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 he had continuously resided in the United States in an unlawful status from before January 1, 1982 through May 4, 1988.

On appeal, the applicant asserts he has resided in the U.S. since 1981. The applicant further asserts that, other than affidavits, he is no longer able to provide additional corroborative evidence as he has misplaced this material in the course of numerous relocations and address changes.

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:

- An affidavit from [REDACTED] who attested to the applicant having resided in the U.S. since 1980. The affiant bases his knowledge on the fact that he and the applicant have been friends for many years and now reside in the same apartment building;
- An affidavit from [REDACTED] who attested to having been acquainted with the applicant in this country since August 1981. The affiant bases her knowledge on the fact that she and the applicant had been members of the same congregation;
- An affidavit from [REDACTED] who attested to having resided in the U.S. since 1980. The affiant applicant having resided in the U.S. since 1977. The affiant bases his knowledge on the fact that the applicant resided at his house for approximately six months after having arrived in the U.S.;

- An affidavit from [REDACTED], who attests to having been acquainted with the applicant in this country since 1983. The affiant bases his knowledge on the fact that the applicant has provided assistance to the affiant's landscaping business.
- An affidavit from [REDACTED] attesting to the applicant having resided in Los Angeles, California since 1980. The affiant bases her knowledge on her having been a friend of the applicant;
- An affidavit from [REDACTED] attesting to the applicant having resided continuously in the U.S. in Los Angeles, California since August 1980;
- An affidavit from [REDACTED], attesting to the applicant having resided in the U.S. since 1980.
- An affidavit from [REDACTED], attesting to the applicant having resided in the U.S. since 1980. The affiant bases her knowledge on her acquaintanceship with the applicant.
- An affidavit from [REDACTED] attesting to the applicant having resided in Venice, California from 1980 to 1987 and in Los Angeles, California, since 1987. The affiant bases his knowledge on having been a close friend and a neighbor of the applicant since 1980;
- An affidavit from [REDACTED] attesting to the applicant having resided in the U.S. since 1980. The affiant bases his knowledge on having been a close friend of the applicant since 1980;
- An affidavit from [REDACTED] attesting to the applicant having resided in Venice, California from August 1980 to January 1987, and in Los Angeles, California, since January 1987;
- An affidavit from [REDACTED] attesting to having known and employed the applicant since March 1982. The affiant bases his knowledge on having met the applicant through his brother, who is also employed by the affiant; and
- An affidavit from [REDACTED] Pastor of [REDACTED] in Los Angeles, California, who attests to the applicant having intermittently attended church services since 1980. The affiant bases his knowledge on having known the applicant since 1980.

The applicant, on appeal, asserts that in the course of frequent moves and relocations, most of his supporting documentation has been lost or misplaced. As a result, he is unable to provide additional, contemporaneous evidence of residence. Under these circumstances, the applicant's inability to submit additional contemporaneous documentation of residence is not found to be 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 no less than 13 affidavits attesting to his residence 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