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**U.S. Citizenship
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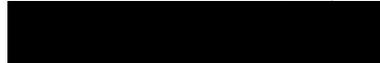


Office: Los Angeles

Date JUN 22 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, and is now before the Administrative Appeals Office 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, counsel asserts that the applicant has met his burden of proof of providing documentation establishing his having resided continuously in the U.S. 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. 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 CIS 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. 8 C.F.R. § 245a.2(d)(3)(vi)(L).

In an attempt to establish continuous unlawful residence since prior to January 1, 1982, the applicant submits the following:

- An affidavit from [REDACTED] who attests to having known the applicant since October 1981. The affiant bases his knowledge on having exchanged visits with the applicant at one another's places of residence;
- An affidavit from [REDACTED] who attests to having known the applicant since October 1981. The affiant bases his knowledge on having exchanged visits with the applicant at one another's places of residence;
- A personal affidavit from the applicant attesting to continuous residence in the U.S. since prior to January 1, 1982 and continuous physical presence in the U.S. from November 6, 1986 to May 4, 1988;

- An affidavit from [REDACTED] who attests to having known the applicant since June 1984, at the time the applicant was working as a painter and construction helper. The affiant bases his knowledge on having frequently encountered the applicant at various Sikh Gurudwaras located in Los Angeles and Alhambra, California;
- An affidavit from [REDACTED] attesting to having known the applicant since October 1981, when the applicant was working as a painter. The affiant bases his knowledge on having frequently encountered the applicant at various Sikh Gurudwaras located in Los Angeles and Alhambra, California; and
- A letter from Dr. [REDACTED] President and Chairman of the Sikh Temple Los Angeles/Sikh Study Circle, Inc., attesting to the applicant having been a member of that congregation.

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).

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. Furthermore, the officer who interviewed the applicant in *Matter of E--M--* recommended approval of the application, albeit, with reservations and suspicion of fraud. In the present case, however, the officer interviewing the applicant regarding his claim to LIFE eligibility recommended denial of the application.

The applicant has submitted no contemporaneous documentation to establish presence in the U.S. from the time he claimed to have commenced residing in the U.S. through May 4, 1988. In light of the fact that the applicant claims to have continuously resided in the U.S. since 1981, this inability to produce contemporaneous documentation of residence raises serious questions regarding the credibility of the claim.

The affidavits submitted by the applicant fail to specify the basis of the affiants' knowledge or how the affiants became acquainted with the applicant. Additionally, most of the affidavits are not verifiable as they are not accompanied by the affiants' phone numbers or addresses and, therefore, do not provide a means by which the affiants may be contacted. Nor do these affidavits include the addresses where the applicant resided throughout the period in which the affiants claim to have known the applicant. In the case of the letter from Dr. [REDACTED] of the Los Angeles Sikh Temple, there is no indication whatever as to how long the affiant has known the applicant or how long the applicant has resided in the U.S. It should also be noted that many of the affidavits included contain language that is almost identical. Such documents appear to have been prepared *for* the affiants rather than *by* the affiants, and do not have the appearance of originating from the affiants' personal knowledge.

Given the absence of contemporaneous documentation pertaining to this applicant, along with the applicant's reliance on affidavits which do not meet basic standards of probative value, it is concluded that he has failed to establish continuous residence in an unlawful status from prior to January 1, 1982 through May 4, 1988, as required.

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