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



U.S. Citizenship
and Immigration
Services

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[REDACTED]

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NOV 23 2004

FILE: [REDACTED] Office: Dallas 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: 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.

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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, Dallas, Texas, 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 that he has submitted sufficient evidence to support his claim of continuous residence in this country since prior to January 1, 1982. The applicant indicates that the purported discrepancy contained in the two separate letters from his employer merely reflect his full-time as opposed to part-time employment.

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).

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).

The applicant is a class member in a legalization class-action lawsuit and as such, was permitted to previously file a Form I-687, Application for Temporary Resident Status Pursuant to Section 245A of the Immigration and Nationality Act (INA) on or about May 2, 1991. At part #36 of the application, where applicants were asked to list all employment in the United States since the date of their first entry, the applicant indicated that he had been employed as domestic help by Rafiq Hassan from October 1981 to December 1982, from January 1983 to February 1986, and from March 1986 to April 20, 1990, the date the Form I-687 application was submitted. In support of his claim of continuous residence in the United States since before January 1, 1982, the applicant submitted two affidavits of residence, an employment letter, and photocopies of four hand-written receipts. It is noted that the applicant subsequently submitted another employment letter from Rafiq Hassan in support of his claim of continuous residence.

In the notice of denial issued on September 4, 2003, the district director questioned the veracity of the applicant's claimed residence in the United States because testimony provided by [REDACTED] in his initial employment letter did not match the testimony he provided in the second employment letter that was subsequently submitted by the applicant. However, an examination of these two employment letters shows that [REDACTED] testimony is neither conflicting nor contradictory, but instead corroborates the applicant's listing of his periods of employment with [REDACTED] of the Form I-687 application. The explanation offered by the applicant on appeal that any purported discrepancy contained in the two separate letters from his employer is a reflection of his full-time as opposed to part-time employment is considered reasonable under these circumstances and appears to have credibly resolved the questions raised by the district director regarding applicant's entry into this country prior to January 1, 1982.

In this instance, the applicant submitted evidence, including affidavits, employment letter and receipts, which tends to corroborate his claim of residence in the United States during the requisite period. The district director has not established that the information in this evidence was inconsistent with the claims made on the application, or that it was false information. 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 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 documentation 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.