U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20529

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: Los Angeles Date: OCT 08 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: 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

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identifying data deleted to prevent clearly unwarranted invasion of personal privacy

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 she had continuously resided in the United States in an unlawful status from before January 1, 1982 through May 4, 1988.

On appeal, the applicant requests that her application be reconsidered and reaffirms her claim to eligibility for permanent resident status under the LIFE Act. In addition, the applicant submits further evidence in support of her claim to continuous residence in the U.S. since 1981.

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). Preponderance of the evidence has also been defined as "evidence which as a whole shows that the fact sought to be proved is more probable than not." Black's Law Dictionary 1064 (5th ed. 1979).

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:

- A Form I-687 Application for Status as a Temporary Resident under Section 245A of the Immigration and Nationality Act, which was signed by the applicant but not dated;

- A Form for Determination of Class Membership in CSS v. Meese, also signed by the applicant but not dated;

- A joint letter from Salvador and [redacted] who state they have known the applicant since the applicant moved to the U.S. in 1981. The affiants base their knowledge on the applicant's being their niece and on the applicant having babysat for them;

- A letter from [redacted] who states that the applicant moved to the U.S. in 1981. The affiant bases his knowledge on being the applicant's uncle and on the fact that the applicant had babysat for his daughter from August 30, 1981 to 1985;

- An affidavit from who attests to having known the applicant since 1987. The affiant bases her knowledge on the fact that the applicant babysat for her neighbor's children.

- An affidavit from attesting to having known the applicant since 1985. The affiant bases his knowledge on the applicant's having been a member of the choir at St. Didacus Church, where the affiant was choir director;

- An affidavit from attesting to having known the applicant since November 1981. The affiant bases his knowledge on the applicant having babysat for three years for the children of the affiant and the affiant's wife;

- A joint affidavit from who attest to having known the applicant since 1986, when the applicant had worked in Sylmar, California as a babysitter;

- A letter from who states that the applicant having resided in the U.S. since 1981. The affiant bases his knowledge on being the applicant's cousin and on having visited her every month;

- A letter from who states he has known the applicant since 1986. The affiant bases his knowledge on being the manager of a laundromat in San Fernando, California, where the applicant usually does her laundry ;

- A letter from who states she has known the applicant since 1986. The affiant bases her knowledge on having been a good friend and neighbor of the applicant;

- A letter from who states that she has known the applicant since 1983, when the applicant and the affiant's mother became good friends;

- A letter from who indicates he has known the applicant since 1984, when the applicant and the affiant's deceased wife became close friends;

- A letter from who states he has known the applicant since 1983, when the applicant and the affiant's daughter became good friends;

- A letter from who states that she has known the applicant since 1983, when the applicant began babysitting for the affiant;

- A letter from Church in San Fernando, California, who states the applicant has been a regular member of his parish since 1982;

- An affidavit from who attests to having known the applicant since 1981. The affiant bases her knowledge on the applicant having been good friends with the affiant's uncle;

- An affidavit from who attests to having been good friends with the applicant since 1981, when the applicant emigrated to the U.S.; and

- An affidavit from [redacted] who attests to having known the applicant since December 1981, having been introduced to the applicant by her former babysitter.

In this instance, the applicant has submitted no less than *17* letters and third-party affidavits attesting to her continuous residence in the U.S. during the period in question. Affidavits in certain cases can effectively meet the preponderance of evidence standard. The director has not established that any of the information in the affidavits and statements submitted by the applicant was false or inconsistent or at variance with the claims made by the applicant on the application. 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, including affidavits and letters furnished by affiants and acquaintances who have provided their current addresses and phone numbers and have indicated their willingness to come forward and testify in this matter if necessary, 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 establishes, 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.