

U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Dallas District Office

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U.S. Department of Homeland Security  
20 Massachusetts Ave. NW, Rm. A3042  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

[Redacted]

FILE:

[Redacted]

Office: Dallas, Texas

Date: Jul 2 2007

IN RE: Applicant:

[Redacted]

APPLICATION:

Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration and 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. The file has been returned to the Dallas District Office. 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 and Family Equity (LIFE) Act was denied by the District Director in Dallas, Texas. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The district director concluded that the applicant had failed to prove by a preponderance of the evidence that she resided in the United States in a continuous unlawful status from before January 1, 1982 through May 4, 1988, as required under the LIFE Act.

On appeal counsel asserts that the applicant fulfills the statutory requirement of having resided continuously in the United States from before January 1, 1982 through May 4, 1988. As evidence thereof counsel submitted a number of documentary materials, most of which were already in the record.

An applicant for permanent resident status under the LIFE Act must establish that he or she entered the United States before January 1, 1982 and resided in this country continuously in an unlawful status from before January 1, 1982 through May 4, 1988. See section 1104(c)(2)(B) of the LIFE Act and 8 C.F.R. § 245a.11(b).

8 C.F.R. § 245a.12(e) provides that “[a]n alien applying for adjustment of status under [section 1104 of the LIFE Act] has the burden of proving by a preponderance of the evidence that he or she has resided in the United States for the requisite periods. . . . The inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification.” As explained in *Matter of E-M-*, 20 I & N Dec. 77, 80 (Comm. 1989), “when something is to be established by a preponderance of the evidence it is sufficient that the proof only establish that it is probably true.” The decision went on to declare that, in the absence of contemporaneous documentation, affidavits are “relevant documents” which warrant consideration in legalization proceedings. *Id.* at 82-83. 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 (5<sup>th</sup> ed. 1979).

In the Form G-325A (Biographic Information) accompanying her LIFE application (Form I-485) the applicant stated that she resided at [REDACTED] in Granada, California from December 1981 to December 1988; at [REDACTED] in Pacoima, California from December 1988 to December 1994; and in Post, Texas from December 1994 to the present. In her decision the district director indicated that the applicant was requested at her LIFE interview to provide evidence of her residence in the United States during the years 1981-1988, but failed to do so. According to the district director, the documents provided by the applicant only showed her U.S. residence from 1989 to the present.

On appeal counsel submitted a photocopied statement from [REDACTED] dated April 29, 2003, on the letterhead of a Spanish-language church in Lubbock, Texas. (The original document had been filed prior to the district director’s decision.) [REDACTED] identified herself as the “assistant secretary.” The letterhead paper identified the pastor of the church and listed his phone number. According to Ms. [REDACTED] the applicant’s family – including her parents and her two siblings – came to Lubbock from California to work temporarily in 1980, 1982, 1984, and 1986. During their times in Lubbock, according to [REDACTED] the applicant and her family attended the said church. When the Dallas District Office tried to telephone the church, however, it was determined that the number identified on the letterhead was not a working number. Accordingly, the district office concluded that it could not confirm the validity of [REDACTED] position as “assistant secretary” in the church. By implication, the credibility of the information provided by [REDACTED] was undermined.

Also submitted on appeal was a photocopied declaration by [REDACTED] of Mission Hills, California, dated May 19, 1990, stating that in December 1981 she met [REDACTED] in Mission Hills, who later changed his name to [REDACTED] (assertedly the applicant’s father). In

addition, counsel submitted an undated statement by Adam Button of Mesa, Arizona, declaring that he met the "Delgadillo family of Post, Texas . . . about a year ago . . . [who] shared stories with me of how they went to California from Mexico in the 1980s, and later to Texas from California in the early 1990s." Lastly, counsel resubmitted photocopies of two envelopes addressed to the applicant in Pacoima, California.

None of the foregoing documentation represents credible evidence that the applicant resided in the United States continuously from 1981 to 1988. The 1990 declaration by [REDACTED] does not even mention the applicant, and even if she did meet the applicant's father in California in December 1981, the declaration says nothing whatsoever about his or his family's residential whereabouts from 1982 to 1988. Adam Button's undated statement, submitted for the first time with the appeal in July 2003, indicated that he had met the applicant's family "about a year ago." That would appear to indicate that he only met the applicant in 2002. Thus, he has no firsthand knowledge of their alleged move from Mexico to California in the 1980s. Lastly, with respect to the photocopied envelopes, the district office viewed the originals and determined that the postmarks were indecipherable. Moreover, the envelopes were addressed to the applicant at 10784 Haddon Avenue in Pacoima, California, where she claims to have resided from December 1988 to December 1994 – *i.e.*, after the applicable time period of continuous U.S. residence required for LIFE legalization.

Based on the foregoing analysis the AAO determines that the applicant has failed to meet her burden of proof. She has not established, by a preponderance of the evidence, that she resided in the United States unlawfully and continuously from before January 1, 1982 through May 4, 1988, as required under section 1104(c)(2)(B) of the LIFE Act and 8 C.F.R. § 245a.12(e).

Accordingly, the applicant is ineligible for adjustment to legal permanent resident status under section 1104 of the LIFE Act.

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