

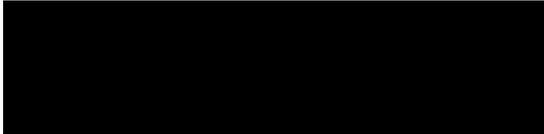
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U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services



FILE: [Redacted] Office: Phoenix Date: [Redacted]

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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

On appeal, the applicant reaffirms her claim to have entered the U.S. in May 1981 to have continuously resided in this country from that time until May 4, 1988. In addition, the applicant asserts that despite numerous efforts, she has been unsuccessful in her attempts at obtaining additional evidence in support of her claim to continuous residence.

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 submitted the following:

- a photocopied Form I-687 Application for Status as a Temporary Resident under Section 245A of the Immigration and Nationality Act (INA), which was signed by the applicant on April 3, 1990;
- a form affidavit from [REDACTED] attesting to the applicant having resided in Garden Grove, California, since May 1981. The affiant bases his knowledge on having met the applicant at a restaurant and having been friends with the applicant since then;
- a form affidavit from [REDACTED] attesting to the applicant having resided in Garden Grove, California, since May 1981. The affiant bases his knowledge on having met the applicant through a friend and on having been a co-worker of the applicant; and

- a photocopy of a printout from the Social Security Branch Office, Fullerton, California, which indicates the applicant's FICA earnings from 1983 through 1989.

In this case, the applicant has submitted a photocopy of a Social Security printout of her earnings. However, the printout does not indicate any earnings prior to 1983.

As stated above, the inference to be drawn from the documentation provided shall depend on the *extent* of the documentation. The applicant in this case has submitted a total of only *two* affidavits covering the period in question. These affidavits are lacking basic and necessary information and, as such, fall far short of containing what such a document should include in order to render it probative for the purpose of establishing an applicant's continuous unlawful residence during the period in question. The affiants provide few details regarding the nature, circumstances or origin of their friendship or acquaintance. For example, the affidavit from [REDACTED] attests to the affiant being a co-worker of the applicant, but fails to mention their place (or circumstances) of employment.

Furthermore, as noted in the district director's notice of intent to deny, the affidavits from [REDACTED] -- both of which date from April 5, 1990 -- attest to the applicant having resided in *Garden Grove, California* since May 1981. However, at item 33 of the applicant's I-687 application, in which applicants are requested to list all residences since their initial entry, the applicant indicated she resided in *Santa Ana, California*, from May 1981 to October 1988. The applicant's failure, on appeal, to account for this significant discrepancy regarding her actual residence during the period in question raises serious issues regarding the credibility of her documentation and claim.

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 she 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.