



U.S. Citizenship
and Immigration
Services

✓

[REDACTED]

FILE: [REDACTED]

Office: Dallas

Date:

OCT 20 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:

[REDACTED]

PUBLIC COPY

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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prevent disclosure of information
protected by privacy

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the Interim 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's attorney asserts that the evidence submitted by the applicant establishes by a preponderance of the evidence that the applicant resided continuously in the U.S. from prior to January 1, 1982 through May 4, 1988. Counsel further asserts that the evidentiary standard used by the district office in denying the application appears to have been considerably more stringent than that normally required in adjudicating such applications.

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 photocopy of an apartment rental lease contract dated November 15, 1981, listing the applicant as one of the residents;
- An employment letter from [REDACTED], Ft. Worth Texas, who asserts the applicant was employed as a cook from 1981 until November 1984;
- Photocopied Air Mail envelopes made out to the applicant at an address in Ft. Worth, Texas, bearing postmarks dated December 20, 1981, June 21, 1982, 1983 and July 17, 1987, respectively;
- An employment letter from Quick Stop Grocery, Ft. Worth, Texas, indicating the applicant was employed there from March 1985 to September 1989;

- A letter from [REDACTED] who asserts she has known the applicant since his first came to Ft. Worth, Texas in 1981;
- A letter from [REDACTED] of Riley & Hunt Business Service, who asserts she has known the applicant since 1981, when he was employed at Sunny's Pizza in Ft. Worth, Texas;
- A photocopied customer receipt dated February 16, 1982 from U.S. Passport Photo Service, Houston, Texas, made out to the applicant;
- A letter from [REDACTED] who asserts he has known the applicant since 1985; and
- A letter from [REDACTED] who asserts he has known the applicant since 1981.

In this instance, the applicant submitted six affidavits attesting to his residence and employment in the U.S. during the period in question. Affidavits in certain cases can effectively meet the preponderance of evidence standard. 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 submitted by persons many of whom are willing to testify in this matter, 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.

It should also be noted that, unlike many applicants for permanent residence under the LIFE program, the present applicant has actually provided contemporaneous evidence of residence.

The affidavits provided by the applicant, along with the contemporaneous evidence, support 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.