U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

PUBLIC COPY

[redacted]

FILE: [redacted] Office: Dallas, Texas Date: OCT 21 2004

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 sustained.

The district director concluded that the applicant failed to establish that he 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. In particular, the district director found the evidence of record lacking for the years 1982 through 1986.

On appeal the applicant asserts that he fulfilled the statute's continuous U.S. residence requirement. The applicant resubmitted photocopies of some materials already in the record and contends that they document his U.S. residence throughout the time period 1981 to 1988.

An applicant for permanent resident status under section 1104 of the LIFE Act must establish that before October 1, 2000, he or she filed a written claim with the Attorney General for class membership in one of the following legalization class-action lawsuits: *Catholic Social Services, Inc. v. Meese*, vacated sub nom. *Reno v. Catholic Social Services, Inc.*, 509 U.S. 43 (1993) ("*CSS*"), *League of United Latin American Citizens v. INS*, vacated sub nom. *Reno v. Catholic Social Services, Inc.*, 509 U.S. 43 (1993) ("*LULAC*"), or *Zambrano v. INS*, vacated sub nom. *Immigration and Naturalization Service v. Zambrano*, 509 U.S. 918 (1993) ("*Zambrano*"). *See* section 1104(b) of the LIFE Act and 8 C.F.R. § 245a.10.

The record establishes that the applicant filed a timely claim in 1990 for class membership in *LULAC*.

An applicant for permanent resident status under section 1104 of the LIFE Act must also establish that he or she entered the United States before January 1, 1982 and resided continuously in the United States in an unlawful status from before January 1, 1982 through May 4, 1988. *See* 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 (5th ed. 1979).

The applicant, a native Pakistani, asserts that he entered the United States unlawfully in October 1981 across the Mexican border and settled in Edmond, Oklahoma. The record includes a 1981 federal tax record (Form 1099-INT) documenting the applicant's interest income of $36.37 that year from the American Bank and Trust in Edmond, Oklahoma. The record also includes a letter the applicant telefaxed on May 8, 2002 to the Edmond Public Works Electric Utility Department stating that he was a customer from October 1981 through September 1988 and asking for confirmation that he resided in Edmond (at [redacted] during that time period. By letter dated May 9, 2002, on letterhead of the City of Edmond, a utility official responded as follows: "We can verify that you were a resident of the City of Edmond during the period you mentioned, as we still maintain access to our name cards." Though this information varies slightly from that provided by the applicant in the Form I-687 he filed in connection with his *LULAC* class membership claim in 1990 (in which he stated that he left Edmond in December 1987 and moved to [redacted] Florida in January 1988), the AAO views the

letter from the City of Edmond, together with the 1981 federal tax record, as more than sufficient evidence for the applicant to meet his burden of proof, by a preponderance of the evidence, that he entered the United States before January 1, 1982 and resided in the United States continuously in an unlawful status from before January 1, 1982 through May 4, 1988, as required by 1104(c)(2)(B) of the LIFE Act and 8 C.F.R. § 245a.12(e).

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.