



U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE: [REDACTED]

Office: Dallas

Date: **OCT 21 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]

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

Identifying data deleted to
prevent disclosure of unwarranted
invasion of personal privacy

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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 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 since before January 1, 1982 through May 4, 1988.

On appeal, counsel for the applicant asserts that the applicant has encountered difficulty providing evidence of employment because his employer died in 1996 and because the employment occurred more than twenty years ago. Counsel also affirms the applicant's claim to have resided continuously in the United States during the period in question. In addition, counsel submits further evidence of the applicant's employment.

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:

- Photocopied Air Mail envelopes addressed to the applicant. The photocopied envelopes appear to bear the following postmark dates: September 1981, August 1983, March 31, 1984, and May 8, 1986;
- An employment letter from [REDACTED] asserting the applicant was employed by [REDACTED] at Southwest Steel and Supply from 1981 until 1996. The writer bases his knowledge on having been [REDACTED] son-in-law and on having become the firm's president and manager after the death of his father-in-law in 1997;
- Photocopies of check stubs bearing the name Southwest Steel & Supply Co., which include handwritten notations indicating payment for employment services designated as "contract labor, [REDACTED] or "66849 - Contract Labor;"

- An affidavit from [REDACTED] who attests to having known the applicant since 1981;
- An affidavit from [REDACTED] who attests to the applicant having resided in Dallas, Texas since March 1981. The affiant bases his knowledge on having been a friend of the applicant since 1982 and a co-worker since 1984;
- An affidavit from [REDACTED] who attests to applicant having resided in Dallas, Texas since March 1981. The affiant bases his knowledge on having been a friend of the applicant since 1982 and a co-worker since 1984;
- A photocopy of a handwritten statement from [REDACTED] who asserts she has known the applicant since February 1981; and
- An affidavit from [REDACTED] who attests to the applicant having lived at the affiant's place of residence from November 14, 1984 to December 31, 1989.

In this instance, the applicant has submitted *six (6)* letters and third-party affidavits attesting to his continuous residence as well as his employment 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.

It should also be noted that, unlike many applicants for permanent residence under the LIFE program, the present applicant has actually provided considerable contemporaneous evidence of residence consisting of photocopied Air Mail envelopes bearing postmark dates occurring within the period in question, along with photocopied check stubs carrying notations indicating payment for services performed.

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.