



U.S. Citizenship  
and Immigration  
Services

✓

[REDACTED]

FILE:

[REDACTED]

Office: Dallas

Date:

SEP 16 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

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prevent clearly 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 Interim District Director, Dallas, Texas, 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, counsel for the applicant asserts that it is unreasonable for Citizenship and Immigration Services (CIS) to require the applicant to submit additional evidence in support of her application since more than twenty years has elapsed since her arrival in the U.S. and many potential affiants and employers are no longer accessible. Counsel further asserts that the applicant has met her burden of proof of establishing by a preponderance of the evidence that she has continuously resided in the U.S. since prior to January 1, 1982, and requests that the district director's decision be rescinded and the application be granted.

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 but not dated;
- an employment affidavit from Manuel Salinas, attesting to the applicant having been employed as a cashier at Salinas Restaurant, Dallas, Texas, from January 6, 1985 to June 25, 1989;

- an employment letter from [REDACTED] manager of Cuquitas Restaurante, Dallas, Texas, who states that the applicant was employed as a bus-girl cleaning tables from August 11, 1981 to December 16, 1984;
- an affidavit from [REDACTED] who attests to the applicant having resided in Dallas, Texas from August 1981 to June 1989; in Monrovia, California from June 1989 to August 1990; and in Dallas, Texas since August 1990. The affiant bases his knowledge on the fact that he is the applicant's brother;
- an affidavit from [REDACTED] attesting to the applicant having resided in Dallas, Texas since August 1981. The affiant bases his knowledge on having been a friend of the applicant; and
- an affidavit from [REDACTED] who attests to the applicant having resided in Dallas, Texas since August 1981. The affiant bases her knowledge on having been the applicant's friend.

As stated above, the inference to be drawn from the documentation provided shall depend on the *extent* of the documentation. In this case, the applicant has submitted *no* contemporaneous documentation to establish presence in the U.S. from the time she claimed to have commenced residing in the U.S. through May 4, 1988. In light of the fact that she claims to have continuously resided in the U.S. since August 1981, this inability to produce contemporaneous documentation of residence raises serious questions regarding the credibility of the claim.

The affidavits submitted in support of the application 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 applicant in this case has submitted a total of *seven* affidavits covering the period from August 1981 through May 4, 1988. Four of the seven affidavits provided attest to the applicant's employment while the remainder focus on the applicant's residence during the period in question. At least three of the four employment affidavits submitted do not appear on their firms' letterhead stationery and do not include a phone number, thereby failing to provide a convenient means by which the affiants might be contacted for purposes of verification. Moreover, while the affiants attesting to the applicant's residence base their knowledge on having been "a friend" of the applicant, they fail to provide any details regarding the nature, circumstances or origin of their friendship or acquaintance. The residence affidavits also disclose inconsistencies. For example, two of the affidavits attest to the applicant having resided *continuously* in Dallas, Texas since August 1981, whereas on the applicant's I-687 application, she specified that for more than a year – from June 1989 to August 1990 – she had been living in Monrovia, California.

Given the absence of contemporaneous documentation pertaining to this applicant, along with the applicant's reliance on affidavits and third-party statements 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.