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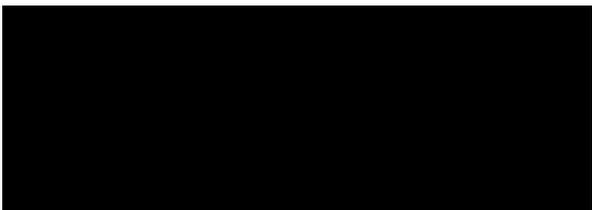
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PHOTOCOPY

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FILE:



Office: Los Angeles

Date: APR 01 2005

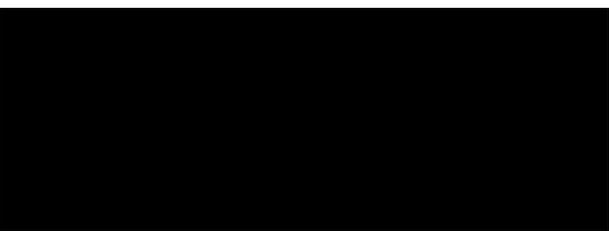
IN RE:

Applicant:



APPLICATION: 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:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has 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

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the District Director, Los Angeles, California, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The director determined that the applicant had not demonstrated that she had entered the United States prior to January 1, 1982. The director also found that 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 states, "I submitted the evidences requested and USCIS did not considered [sic] the evidences [sic]. Please review my application and the evidences submitted.

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. See 8 C.F.R. § 245a.11(b).

Additionally, the regulation at 8 C.F.R. § 245a.15(c)(1) defines "*continuous unlawful residence*" as follows:

An alien shall be regarded as having resided continuously in the United States if no single absence from the United States has exceeded *forty-five (45) days*, and the aggregate of all absences has not exceeded one hundred and eighty (180) days between January 1, 1982, and May 4, 1988, unless the alien can establish that due to *emergent reasons*, his or her return to the United States could not be accomplished within the time period allowed.

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. See 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 the 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. See 8 C.F.R. § 245a.2(d)(3)(vi)(L).

To establish continuous unlawful residence since before January 1, 1982, the applicant furnished evidence including affidavits of residence and employment, photographs, driver's license information and automobile documents. However, the applicant also submitted her resume listing her work experience from 1987 through 2003. The resume clearly shows that from 1987 to 1988 she worked as an instructor at the Casa de la Cultura House in Tebaida, Colombia where she taught French Art. This employment information is in sharp contrast to an affidavit that the applicant submitted from [REDACTED] who stated that the applicant was employed by her as a live-in housekeeper from December 1, 1981 to June 15, 1989 at [REDACTED] San Pedro, California.

In this instance, the applicant submitted evidence, including contemporaneous documents, to corroborate her claim of residence in the United States during the requisite period. However, she also submitted evidence that was inconsistent with the claims made on the application. As stated on *Matter of E--M--*, *supra*, when something is to be established by a preponderance of evidence, the applicant has to establish that the proof is probably true.

Section 1104(c)(2)(B)(i) of the LIFE Act provides that each applicant for permanent resident status must establish that he or she entered and commenced residing in the United States prior to January 1, 1982. As stated above, on her resume the applicant states that she resided abroad from 1987 to 1988 while she taught French Art. Her resume also shows that her next employment was in the United States from 1990 to 1991 when she performed housekeeper duties at the [REDACTED] Hospital in Carson, California. Given the applicant's inability to meet the statutory requirement of residence in the United States since before January 1, 1982 through May 4, 1988, the applicant is ineligible for permanent residence under section 1104 of the LIFE Act.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.