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

PUBLIC COPY

[redacted]

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FILE: [redacted] Office: ST. LOUIS Date: APR 21 2005

IN RE: Applicant: [redacted]

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:

[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. Any further inquiry must be made to that office.

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, Kansas City, Missouri, 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 he had continuously resided in the United States in an unlawful status from before January 1, 1982 through May 4, 1988.

On appeal, counsel asserts that the applicant has submitted sufficient documentation establishing continuous residence in the United States from prior to January 1, 1982 through May 4, 1988. Counsel provides additional evidence as well as copies of previously submitted documentation in support of the appeal.

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 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).

In an attempt to establish continuous unlawful residence since before January 1, 1982 through May 4, 1988, the applicant provided the following evidence throughout the application process:

- An employment letter dated April 4, 1986 from [redacted] assistant manager of Marmike Painting Co. who indicated that the applicant was employed as a painter since November 1981.
- An employment letter from [redacted] manager of Danube Contracting Co. who indicated that the applicant was employed as a painter from May 1986 through December 1989.
- A medical prescription issued to the applicant on February 3, 1982.
- An affidavit from [redacted] who asserted that he has been acquainted with the applicant since 1981 and attested to the applicant's residences in New York and Ohio.
- An affidavit from [redacted] who asserted that he has been acquainted with the applicant since 1982 and attested to the applicant's residences in New York.

- An affidavit from who asserted that he has been acquainted with the applicant from 1981, and attested to the applicant's residence in New York.
- An affidavit from who indicated that the applicant was a regular customer at his grocery stores in Queens, New York from 1981 to 1983, and in Long Island City, New York from 1984 until 1985.
- An affidavit from who indicated that the applicant had been his patient from 1981 until 1990. M attested to the applicant's residences in Jamaica, New York.
- An affidavit fr who attested to the applicant's presence in St. Louis, Missouri during February 1982.
- An affidavit from who asserted that he has been acquainted with the applicant from 1981, and attested to the applicant's residences in Jamaica, New York from 1981 through 1990.
- An affidavit from who indicated that he has known the applicant for 18 years and attested to the applicant's employment as a painter.
- An affidavit from lergy person of Iqra Islamic Center in Jackson Heights, New York who attested to the applicant's residence in New York from 1981 through 1990, indicated that the applicant attended Friday prayers and participated in several community programs.

The applicant has submitted several receipts from grocery stores, the U.S. Postal Service, hardware stores, and department stores. However, none of the receipts list the applicant's name, and therefore have no evidentiary weight or probative value. In addition, the applicant submitted several affidavits from an acquaintance and family members residing in Pakistan who attested to the applicant's departure from Pakistan in August 1981. The affidavits, however, may only serve to establish the applicant's departure from his native country, but cannot serve to establish the applicant's residence in the United States as none of the affiants have resided in the United States.

The director, in his Notice of Intent to Deny issued on January 5, 2004, indicated that the record contained two legalization front desking questionnaire that contradicted each other. Both questionnaires are dated September 15, 1999; however, one is signed by the applicant and indicated that he appeared before the New York Office in September 1987 and was told by an immigration official that he was not eligible for legalization. The other questionnaire signed by a representative of the applicant's former counsel indicated that the applicant appeared before the Los Angeles Office in September 1987 and was informed that he was ineligible for legalization and was subject to deportation.

In response, counsel provided an affidavit from the applicant's former attorney who indicated that the questionnaire indicating that the applicant applied for legalization at the Los Angeles Office on the same date he applied in New York was due to a typographical error by his legal assistant.

On appeal, counsel provided an affidavit from who indicated that he prepared and filed income tax returns for the applicant for 1981 and 1982.

In this instance, the applicant submitted evidence, including contemporaneous documents, which tends to corroborate his claim of residence in the United States during the requisite period. The district director has not established that the information in this evidence was inconsistent with the claims made on the application, or that it was false information. 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 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.

The documentation provided by the applicant supports 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.