



U.S. Citizenship
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FILE: [Redacted]

Office: Los Angeles

Date: AUG 04 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: Self-represented

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.

Handwritten signature of Robert P. Wiemann in cursive.

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 (AAO) 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 from before January 1, 1982 through May 4, 1988.

On appeal, the applicant indicates that she has submitted sufficient evidence to support her claim of continuous residence in this country since prior to January 1, 1982.

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).

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).

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).

The applicant is a class member in a legalization class-action lawsuit and as such, was permitted to previously file a Form I-687, Application for Temporary Resident Status Pursuant to Section 245A of the Immigration and Nationality Act (INA) on or about March 9, 1994. At part #33 of the application where applicants were asked to list all residences in the United States since the date of first entry, the applicant indicated that she had lived at two addresses in Gardena, California from October 1981 to June 1991, and thereafter an address in Canoga Park, California. At part #35 of the application where applicants were asked to list all employment since first entry, the applicant listed employment for the Gardena Bike Shop from October 1981 to April 1991. In support of her claim of continuous residence in the United States since before January 1, 1982, the applicant submitted three affidavits attesting to her residence in this country for the requisite period and an employment letter.

The record shows that the applicant submitted her Form I-485 LIFE Act application on March 22, 2002. In support of her claim of continuous unlawful residence since before January 1, 1982, the applicant included

photocopies of the following new documentation: immunization records, school records, a school identification card, and three postmarked envelopes.

In the notice of intent to deny issued on May 19, 2004, the district director questioned the veracity of the applicant's claimed residence in the United States. Specifically, the district director stated that two of the affidavits of residence included with the Form I-485 LIFE Act application, those of [REDACTED] and [REDACTED] contradicted the applicant's claim that she resided at multiple addresses in Gardena, California and a subsequent residence in Canoga Park, California from October 1981 onwards because these two individuals stated that she lived in the City of Los Angeles, California during the period in question. However, the affidavits of these two individuals both clearly state that the applicant lived in Los Angeles County, California rather than the City of Los Angeles.

In addition, the district director determined that the applicant provided conflicting testimony at her interview on May 17, 2004, relating to her specific place of residence, periods of employment, and dates that she attended school during the requisite period, when such testimony was compared with information provided on the Form I-687 application. While the applicant's testimony does not exactly conform to information previously provided by her on the Form I-687 application, it cannot be considered as contradictory to her claim of residence in the United States from prior to January 1, 1982. Furthermore, it is reasonable to conceive that an individual's testimony relating to events and occurrences that happened close to and over twenty years ago would not remain perfectly consistent over time. Therefore, the district director's conclusions regarding the credibility of the applicant's claim of residence and the sufficiency of her supporting documentation as expressed in the notice of intent must be considered as questionable. The applicant was granted thirty days to respond to the notice and provide additional evidence in support of her claim of residence in the requisite period.

In response, the applicant submitted a statement in which she indicated that her dates of residence had not been correctly entered at part #33 of Form I-687 application and this may have led to some confusion regarding her place and dates of residence during her interview. The applicant provided copies of previously submitted documents.

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