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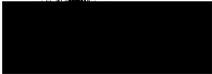
U.S. Citizenship
and Immigration
Services

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FILE:



Office: Los Angeles

Date: **AUG 16 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:

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.

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 submitted sufficient evidence to support his claim of continuous residence in this country since prior to January 1, 1982. The applicant states that she is unable to obtain further documentation in support of her claim of residence.

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 June 12, 1991. In support of her claim of continuous residence in the United States since before January 1, 1982, the applicant submitted sixteen photocopied rent receipts, a letter from the Housing Authority of Los Angeles, California, eight bills from two different utility companies, five receipts from two different utility companies, a receipt issued by the California Department of Motor Vehicles, two documents relating to MEDICAL benefits issued on behalf of her children, a receipt for the California Employment Development Department, a Form W-2, Wage and Tax Statement, two State of California Certificates of Live Birth, and two affidavits of residence. At part #36 of the Form I-687, where applicants were asked to list all employment since entry, the applicant indicated "none." It is noted that the record shows that the Form I-687 application was prepared and executed by an individual other than the applicant.

The record shows that the applicant submitted her Form I-485 LIFE Act application on March 28, 2002. The applicant subsequently provided a new affidavit in support of her claim of residence for the requisite period.

The record shows that the applicant was interviewed at the Los Angeles, California, District Office on December 10, 2003. The notes of the interviewing officer reflect that the applicant acknowledged that she had engaged in employment since she entered the United States in 1981.

In the notice of intent to deny issued on June 3, 2004, the district director questioned the veracity of the applicant's claimed residence in the United States. Specifically, the district director stated that the applicant had provided conflicting testimony regarding the date she initially entered into this country because she indicated that she entered the United States in November 1984 at part #16 of her Form I-687 application. The district director also noted that the applicant had submitted a Form W-2, Wage and Tax Statement, from 1984, despite the fact that she did not list any employment on her Form I-687 application. However, part # 16 of the Form I-687 application asks the date of an individual's last entry to this country and the applicant clearly indicated that she began residing in the United States in November 1981 at part #33 of the application. While the district director was correct in stating that the applicant did not list any employment at part #36 of the Form I-687, the fact remains that she included employment documents with her Form I-687 application and acknowledged that she had engaged in employment since she entered the United States in 1981 at her subsequent interview on December 10, 2003. It is apparent that the individual who prepared the Form I-687 application may have omitted information relating to the applicant's employment as she has consistently admitted to engaging in employment during the requisite period throughout these proceedings. The applicant was granted thirty days to respond to the notice.

In response to the notice of intent to deny, the applicant submitted a statement in which she indicated that any conflict in testimony relating to the date she initially entered this country was the result of the mistaken entry at part #16 of the Form I-687 application. The applicant again acknowledged that she engaged in employment from 1981 to 1988, despite the fact that such employment was not listed on her Form I-687. It is noted that the applicant included two new affidavits of residence and additional medical records of her children to support her claim of residence with her response. The explanation put forth by the applicant appears to reconcile any purported conflicts regarding her initial date of entry into this country as well as her employment during the period in question. Consequently, the inconsistencies cited by the district director are minimal and cannot be considered as fatal to the applicant's claim of continuous residence in the United States from prior to January 1, 1982 to May 4, 1988.

In this instance, the applicant submitted evidence, including affidavits 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 she 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.