



U.S. Citizenship
and Immigration
Services

U.S. DEPARTMENT OF HOMELAND SECURITY
INVESTIGATION OF PERSONNEL PROTECT

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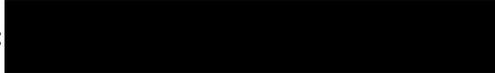
Office: LOS ANGELES

Date:

AUG 23 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. 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, Los Angeles, California, 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 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 assert that she has submitted sufficient documentation establishing continuous residence in the United States from prior to January 1, 1982 through May 4, 1988.

It is noted that the director, in denying the application, did not address the evidence furnished initially, and did not set forth the specific reasons for the denial pursuant to 8 C.F.R. § 103.3. As such, the documentation submitted throughout the application process will be considered on 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:

- Affidavits from [REDACTED] who attested to the applicant's residences in Chula Vista and North Hollywood, California since March 1981. The affiants asserted that they have remained good friends with the applicant since that time.
- A California identification card issued on August 11, 1983.
- An affidavit from [REDACTED] who indicated that she has known the applicant since 1987. [REDACTED] asserted that she and the applicant were once co-workers.
- An affidavit from [REDACTED] who indicated she met the applicant in 1986 through friends of hers and has remained good friends with the applicant since that time.

- An affidavit from [REDACTED] who indicated that she has known the applicant since 1984. [REDACTED] asserted that she and the applicant are co-workers.
- Two earnings statements dated October 28, 1983 and November 4, 1983.
- An earnings statement dated December 9, 1983 from Noelia Fashions in San Ysidro, California.
- Affidavits notarized June 28, 1993 and July 14, 2001 from [REDACTED]. However, in her initial affidavit [REDACTED] indicated that she had known the applicant since 1981, and in her second affidavit [REDACTED] indicated that she had known the applicant since March 1982. No explanation was provided for this contradiction.
- An affidavit from [REDACTED] who indicated that the applicant was residing at her home and employed as a babysitter from 1981 to 1988.
- A stop payment customer receipt dated September 28, 1983.
- An envelope postmarked 12 February 1987 to the applicant's address in Chula Vista, California.
- An affidavit from [REDACTED] who indicated that the applicant has been residing in the State of California since 1980.

The director, in her Notice of Intent to Deny dated June 15, 2004, informed the applicant of inconsistencies between her initial and second interview. Specifically, the date of the applicant's first entry into the United States and the date she departed the United States to arrange her mother's funeral.

The applicant, in response, asserted that she departed in 1985 to arrange her father's funeral and again in 1987 to arrange her mother's funeral. The applicant provided copies of her parents' death certificates with English translations.

Whether or not the applicant entered the United States in 1980 or 1981 is irrelevant as either entry occurred prior to the January 1, 1982 for establishing eligibility. 8 C.F.R. § 245a.15(a).

In this instance, the applicant submitted evidence, including contemporaneous documents, which tends to corroborate her 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.