



U.S. Citizenship
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FILE:



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 applicant appears to be represented; however, the record does not contain Form G-28, Notice of Entry of Appearance as Attorney or Representative. All representations will be considered, but the decision will be furnished only to the applicant.

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; the applicant asserts that the decision to deny his application was arbitrary, capricious, and not supported by substantial evidence.

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 residence in Los Angeles, California since December 1981.
- Several illegible postmarked envelopes.

- An employment letter from [REDACTED] store manager of Alberto's Jewelry in Huntington Park, California who indicated that the applicant was employed as a janitor from December 1986 to April 24, 1987.
- A statement dated November 2, 1990 from [REDACTED] who indicated that the applicant was in her employ as a janitor at medical and dental buildings from February 1982 to February 1983.
- An affidavit from [REDACTED] who indicated that the applicant resided with her at [REDACTED] from December 1981 to November 1984.
- A letter dated July 28, 1990 from a representative of Abraham Lincoln Soccer League in Los Angeles, California attesting to the applicant's membership in the league from 1984 to 1987.
- An affidavit from [REDACTED] owner of La Mexicana Meat Market who indicated that the applicant was in his employ as a janitor from January 1986 to December 1986.
- An affidavit from [REDACTED] who attested to the applicant's residence in North Hollywood, California since 1981. Mr. [REDACTED] asserted that he has remained good friends with the applicant since that time.
- Declarations dated December 19, 2001 and July 22, 2004 from [REDACTED] who indicated that he has known the applicant since 1981 and has remained good friends with the applicant since that time.
- A declaration from [REDACTED] who indicated that he has known the applicant since 1985 when he repaired a car belonging to a family member of the applicant.
- Declarations from [REDACTED] who indicated that he has known the applicant since 1984. Mr. [REDACTED] asserted that he and the applicant resided in the same apartment building at [REDACTED] from 1985 to 1987.
- An affidavit and a declaration from [REDACTED] who indicated that he has known the applicant since 1981. Mr. [REDACTED] indicated that he resided and worked with the applicant for a period of time.
- A declaration from [REDACTED] who indicated he has known the applicant since 1981 and has remained good friends with the applicant since that time.
- A receipt dated November 16, 1983.

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.