

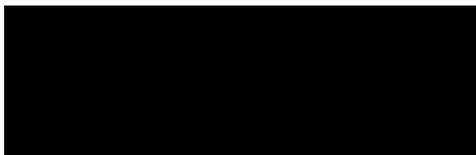
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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, D.C. 20529



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] Office: LOS ANGELES Date: AUG 23 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. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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 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 reasserted the veracity of his claim.

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 26, 1990 from Kenneth E. Hayden, president of Hayden Bros. Eng. Contrs., Inc. in Sun Valley, California who indicated that the applicant has been in his employ as a laborer since 1981.
- An affidavit notarized June 15, 1990 from [REDACTED] who indicated that the applicant has been residing with her from March 1980 to May 1988.
- A letter from [REDACTED] Tile in Reseda, California who indicated that he has known the applicant since 1981 as an employee of Hayden Bros. Inc. [REDACTED] asserted that the applicant has been in his employ since 1990.

The director, in her Notice of Intent to Deny dated June 28, 2004, informed the applicant that the affidavits submitted were vague and lacked corroborating evidence, and the employment letter did not meet the regulatory requirements as set forth in 8 C.F.R. § 245a.12(10)(b)(e).

The applicant, in response, submitted the following documentation:

- An additional letter dated July 14, 2004 from [REDACTED] who reaffirmed the applicant's employment with his company. [REDACTED] asserted that the applicant was employed as a labor/construction worker from January 1, 1981 through April 26, 1990 and resided in Sun Valley and San Fernando, California.
- A letter from Antonio Gomez of A.G.&B. Construction who indicated that he has known the applicant since 1980 and attested to the applicant's residence in San Fernando and Sun Valley, California. [REDACTED] asserted that he occasionally employed the applicant in his construction business.
- An affidavit from [REDACTED] who indicated that he has been acquainted with the applicant since January 1981 as he was a co-worker of the applicant at Hayden Bros. Eng. Contrs. [REDACTED] asserted that he has remained friend with the applicant since that time.
- An affidavit from [REDACTED] who indicated that she has been acquainted with the applicant since March 1984 and has remained friend since that time.

The director, in denying the application, noted that at the time of the applicant's interview he indicated that he was paid in cash; however, the employment documentation listed a social security number in his name. The director also noted that the telephone number listed on the employment letter for Hayden Bros. Eng. Contrs. was no longer in service.

On appeal, the applicant asserts that he was in fact paid in cash by his employer, and did not start using a social security number until 1988. The applicant further asserts that his employment letter from Hayden Bros. Eng. Contrs. was issued on a letterhead that is no longer being used and, therefore, contained an old telephone number. The applicant provided the new telephone number for the company.

The applicant's response on appeal has been considered and is plausible.

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.