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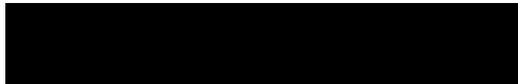
Office: LOS ANGELES

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 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 he has submitted sufficient documentation establishing continuous residence in the United States from prior to January 1, 1982 through May 4, 1988. The applicant states that the director failed to consider the documentation submitted in response to the Notice of Intent to Deny.

It is noted that the director, in denying the application, did not address the evidence furnished initially, and in response to the Notice of Intent to Deny, 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:

- An employment affidavit from [REDACTED] an assistant manager, who indicated that the applicant was in his employ as a gardener from February 1986 to June 1989.
- An affidavit from I [REDACTED] who attested to the employment of [REDACTED] at Century Trends in Anaheim, California from 1980 to 1982.
- An additional affidavit from [REDACTED] vice president of Pacific Trends in Santa Ana, California attested to the employment of [REDACTED] from 1981 to 1985.

- Several rent receipts dated during June 1, 1981 to March 1, 1988 for the applicant's residence at ██████████ Maywood, California.

The director issued a Notice of Intent to Deny dated July 1, 2004, informing the applicant of inconsistencies between his oral testimony and the documentation presented with his LIFE application. Specifically, at the time of his interview the applicant indicated that he entered the United States in June 1981; however, at item #33 on the Form I-687 application, the applicant listed his last entry into the United States as May 1980. The director also informed the applicant that there was no evidence on record to corroborate that he and Alfonso Navarrete were one and the same person.

The applicant, in response, submitted a statement with a photograph attached dated July 2, 2004, from Luis Solorio who attested to the applicant's alias, ██████████ while the applicant was in his employ at Pacific Trends from November 1981 to December 1985. Mr. ██████████ asserted that although two employment letters were initially submitted, the letter attesting to the applicant's employment from 1980 to 1982 should have been destroyed.

Whether or not the applicant entered the United States in 1980 or 1981 is irrelevant as said arrival occurred prior to 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 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.