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U.S. Citizenship
and Immigration
Services

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FILE:



Office: LOS ANGELES

Date:

AUG 24 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.

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, counsel asserts that the applicant has submitted sufficient documentation establishing continuous residence in the United States from prior to January 1, 1982 through May 4, 1988. The applicant provides copies of previously submitted documentation in support of the 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:

- Several earnings statements issued on July 3, 1986 through July 16, 1987 from CDI Temporary Services.
- A 1986 wage and tax statement from CDI Temporary Services.
- An envelope from Fingerhut postmarked September 8, 1986 to the applicant's residence at [REDACTED]
- Several envelopes postmarked in 1986 and 1987 to the applicant's residence.
- A temporary driver license permit issued on April 30, 1987 by the Texas Department of Public Safety.
- A Texas identification card, which expired on his birthday in 1990.

- An employment affidavit notarized March 13, 1992 from [REDACTED] of Rancho Cucamonga, California who indicated that the applicant has been in his employ in labor construction since July 1987.
- An employment affidavit from [REDACTED] of Ramon's Lawn Service in Redlands, California who indicated that the applicant was in his employ cleaning yards from January 1985 to July 1986.
- An employment letter from [REDACTED] of Rancho Corporation who indicated that the applicant was in his employ as an agricultural worker from October 1981 to December 1984.
- An affidavit from [REDACTED] who indicated that he has known the applicant since 1981 and attested to the applicant's residences in Ontario, California and Dallas, Texas. Mr. [REDACTED] asserted that he has remained good friends with the applicant since that time.
- A letter from [REDACTED] who indicated that the applicant was in his employ as a gardener from September 1981 to June 1986.
- An affidavit notarized June 3, 1995 from [REDACTED] landlord who attested to the applicant's residence at [REDACTED] since July 28, 1987.
- An affidavit from [REDACTED] who indicated that the applicant resided with him as a room-mate at [REDACTED] from October 1981 to June 1986.
- A Form G-361 reflecting a date of entry of August 24, 1987.
- A border crossing card issued on July 23, 1981.
- A letter from Father [REDACTED], pastor of Our [REDACTED] in Ontario, California who indicated that the applicant has been a member of its parish since January 1, 1982.
- An affidavit from [REDACTED] who indicated that he has been acquainted with the applicant since March 1988.

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.