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U.S. Citizenship  
and Immigration  
Services

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FILE: [REDACTED] Office: PHOENIX Date: AUG 24 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.

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 due to the passage of time, he is unable to produce additional documentation. The applicant states that he did not attend school in the United States as it "was more important to survive at the time rather than go to school...."

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 affidavit from [REDACTED] who indicated that he has known the applicant since December 30, 1987.
- An affidavit and a letter from [REDACTED] who indicated that he has known the applicant since December 20, 1981. Mr. [REDACTED] asserted that the applicant resided at his home and was employed in maintenance, housecleaning and as a gardener from January 4, 1985 to December 10, 1987.
- An affidavit and a letter from [REDACTED] who indicated that the applicant resided at his home from December 15, 1981 through December 30, 1984. Mr. [REDACTED] asserted that he provided financial support and the applicant assisted him in yard and maintenance work around his home as well as gardening for other individuals.

- An affidavit from [REDACTED] who indicated that he has known the applicant since December 30, 1981. Mr. [REDACTED] asserted that the applicant resided at his home, and was in his employ as a gardener and cleaning his home from December 15, 1987 to June 16, 1989.
- A letter from [REDACTED] pastor of Mary Immaculate Church in Pacoima, California who indicated that the applicant attended church from 1981 to 1984 when he resided on Sayre Street in Sylmar, California.

The director, in his Notice of Intent to Deny dated March 18, 2004, informed the applicant of inconsistencies between his interview and his Form I-687 application. Specifically, at the time of his LIFE interview, the applicant claimed residence at [REDACTED] from December 1981 to December 1984; however, the applicant, on his Form I-687 application, listed residence at [REDACTED]. In addition, no explanation had been provided why the applicant did not attend school.

The applicant, in response, asserted that he resided at Mr. [REDACTED] home in San Fernando, California in 1981. The applicant stated that he made an error at the time of his interview and "I put the address that my cousin had in 1990 instead of 1981." The applicant stated that he did not attend school in the United States because he had completed grade school in his native county and did not know that it was mandatory to continue his education.

The statements of the applicant have been considered and are plausible. However, the letter from [REDACTED] cannot be accepted as credible as it contradicts the applicant's claim to have resided in San Fernando during 1981 to 1984. Furthermore, the applicant's contention that the inability to produce additional evidence of residence for the period in question was the result of the passage of time is considered to be a reasonable explanation in these circumstances.

In this instance, the applicant submitted evidence which tends to corroborate his claim of residence in the United States during the requisite period. 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.