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U.S. Department of Homeland Security  
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**U.S. Citizenship  
and Immigration  
Services**

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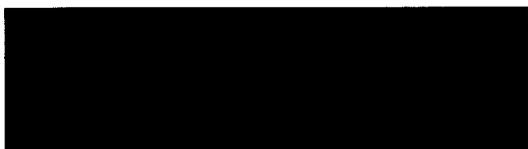
FILE:  Office: Houston

Date: **FEB 23 2005**

IN RE: Applicant: 

PETITION: 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:



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. If your appeal was sustained, or if the matter was remanded for further action, you will be contacted. If your appeal was dismissed, you no longer have a case pending before this office, and you are not entitled to file a motion to reopen or reconsider your case.

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, Houston, Texas, and is now before the Administrative Appeals Office (AAO) 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 evidence to support his claim of continuous residence in this country since prior to January 1, 1982. Counsel contends that the applicant believed he was being questioned regarding his departures from the United States and reentries into this country in the period from January 1, 1982 to May 4, 1988, and, therefore, made no mention of subsequent departures from and reentries into the United States during his interview on August 13, 2003. Counsel provides copies of previously submitted documents.

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. 8 C.F.R. § 245a.12(e). When something is to be established by a preponderance of evidence it is sufficient that the proof only establish that it is probably true. *See Matter of E-- M--*, 20 I. & N. Dec. 77 (Comm. 1989).

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).

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 support of his claim of continuous residence in the United States since before January 1, 1982, the applicant submitted twelve affidavits of residence signed by nine individuals, two employment letters, a letter of membership, and a postmarked envelope.

In the notice of denial issued on December 30, 2003, the district director questioned the veracity of the applicant's claimed entry into the United States because of testimony he provided at the interview relating to his LIFE Act application on August 13, 2003. However, an examination of the interviewing officer's notes reveals that the applicant made no admission or statement that could be perceived to directly contradict or conflict with his claim of residence in this country for the period from prior to January 1, 1982 to May 4, 1988. While the district director indicated that the applicant's credibility had been impaired because he had failed to disclose that he subsequently

made lawful entries into the United States in 1990 and 1995, the relevancy of events that occurred subsequent to the termination of period of unlawful residence in this country on May 4, 1988, is minimal in the current proceedings and not the focus of an examination of this particular applicant's claim of residence for the requisite period. The explanation offered both in response to the notice of intent to deny and on appeal that the applicant believed he was being questioned regarding his departures from the United States and reentries into this country in the period from January 1, 1982 to May 4, 1988, and, therefore, made no mention of subsequent departures from and reentries into the United States during his interview on August 13, 2003 is considered reasonable under these circumstances.

In this instance, the applicant submitted evidence, including affidavits, employment letters, a letter of membership, and a contemporaneous document, 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.