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

FILE: Office: Los Angeles Date: FEB 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:

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has 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, Los Angeles, California, and is now before the Administrative Appeals Office on appeal. The appeal will be sustained.

The director acknowledged that the applicant had continually resided in this country from before January 1, 1982 to 1984. The director denied the application because the applicant had not demonstrated that he had continuously resided in the United States in an unlawful status from 1985 to 1988.

On appeal, counsel submits two new affidavits and two new letters from friends, acquaintances and co-workers documenting the applicant's continuous presence in the United States from 1984 through May 15, 2004. Counsel requests that the application be approved.

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. *See* 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. *See* 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 addition to the other documents submitted, the applicant forwarded extensive documentation concerning his continuous residence in the United States in an unlawful status from 1985 to 1988 that was not mentioned and/or considered by the director in her order: That documentation is listed below:

1. A Social Security Administration document entitled Request to Employee for Social Security Information showing that the applicant worked for [redacted] in 1987 and earned $646.56 from that firm during that year.

2. A copy of a California driver's license issued to the applicant on January 25, 1988.

3. A letter dated July 5, 2003 from [redacted] who stated that the applicant has been a friend of his family since 1978 and that "During this period of time he has been a loyal friend and a very trustworthy, dedicated and reasonable person."

4. An affidavit dated November 5, 2003 from which states in part: "I met for the first time in 1979 when he came to work at the Velvet Turtle in West Los Angeles, California. At the time was hired as a busboy and I was working as a head waiter. . . and I worked together for many years at the until I left the in 1990."

5. An affidavit dated November 5, 2003 from which states in part: "I have personal knowledge that ame to the United States in 1987, because at the time of his arrival, he came to live at the same apartment building I was living a ater, in 1980 I started working at the in the city of West Los Angeles where was already working. . . and I worked together at the until the restaurant until the restaurant closed in about 1991.

6. An affidavit dated November 12, 2003 from dated November 12, 2003 indicating that she met the applicant at our place of employment at back in November, 1984, since then we have always maintained a good, close and friendly relationship. I have seen and visited the applicant at least once a month all during that time and I know he has been present in the US to date."

7. A letter dated March 17, 2004 from the owner of FCO Cabinets in Bellflower, California. states that he has known since 1984 and that the applicant comes down to his shop and fixes his cars when they aren't working properly. explains that is a mechanic and a waiter.

8. A declaration of dated March 18, 2003 in which she states that she first met in October 1983 at the n West Los Angeles, California where she was a regular customer and he was working as a waiter. She then provides specific information concerning the applicant's activities and indicates that she and see each other at least once a week.

Counsel noted that most of the affidavits submitted with the application indicated that the affiants knew the applicant "since" indicating through to the present. The director is reminded that the Citizenship and Immigration Services illustrative list of documents that an applicant may submit permits the submission of affidavits in the category of "Any other relevant document." *See:* 8 C.F.R. § 245a.2(d)(3)(vi)(L).

In this instance, the applicant submitted evidence, including contemporaneous documents, which corroborate his claim of residence in the United States during the requisite period and specifically from 1985 through 1988, the period specified in the director's decision. The director has not established that the information furnished as evidence was inconsistent with the claims made on the application, or that it was false information. As a matter of fact, the director does not even mention the specific evidence at all in her Notice of Intent to Deny or the final decision. 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 director shall continue the adjudication of the application for permanent resident status.

ORDER: The appeal is sustained.