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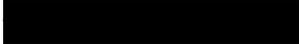
**U.S. Citizenship
and Immigration
Services**

identifying name should be
prevented clearly necessary
invasion of personal privacy



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JAN 27 2008

FILE:  Office: Houston Date:

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.

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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 she had continuously resided in the United States in an unlawful status since before January 1, 1982 through May 4, 1988.

On appeal, counsel asserts that the applicant submitted sufficient documentation to establish her eligibility for permanent resident status under the LIFE Act. Counsel submits an affidavit 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).

The applicant is a class member in a legalization class-action lawsuit and as such, was permitted to previously file a Form I-687, Application for Temporary Resident Status Pursuant to Section 245A of the Immigration and Nationality Act (INA) on November 14, 1991. In support of her claim of continuous residence in the United States since prior to January 1, 1982, the applicant submitted three affidavits of residence, school records, health records, and church records. Subsequently, on September 17, 2001, the applicant submitted her LIFE Act application.

On January 28, 2003, the district director issued a notice of intent to deny to the applicant informing her of the Immigration and Naturalization Service's, or the Service's (now Citizenship and Immigration Services, or CIS) intent to deny her application because she failed to submit sufficient evidence of continuous unlawful residence in the United States from January 1, 1982 through 1983. The applicant was granted thirty days to respond to the notice and provide additional evidence in support of her claim of residence in this period.

It is noted that within this notice, the district director concluded that the applicant had not entered the United States until November 1983, because she had previously "reported" so, and this was the date of entry listed on a Form I-205, Warrant of Deportation, that had been issued to her on January 24, 1990. However, the record

contains no definitive evidence to establish that the applicant admitted that she had not entered the United States until November 1983. Furthermore, the deportation warrant does not list a specific date rather it cites only November 1983 as the applicant's date of entry. The mere fact that a date is listed on the warrant is not conclusive evidence that the applicant entered the country on such date, yet alone that this was the date of her first entry into the United States. Therefore, the district director's unsupported conclusion that the applicant had not entered the United States until November 1983 shall not be discussed further.

In response, the applicant submitted a statement in which she declared that she first came to this country in September 1981. The applicant stated that she resided with her family in Dallas, Texas from that date until 1983 when she and her family moved to Houston, Texas. The applicant contended that she and her brothers did not attend school while living in Dallas because her mother feared being deported from the United States. The applicant indicated that she has contemporaneous evidence of her subsequent residence in this country because she began to attend school after moving to Houston in 1983.

Counsel also submitted a statement in which it was indicated that, [REDACTED] the individual who signed the affidavit noted above, had passed away. Counsel declared that the applicant was awaiting an affidavit from Mr. [REDACTED] daughter to support her claim of residence. The applicant subsequently submitted an affidavit dated March 3, 2003, and signed by [REDACTED] daughter of [REDACTED] and current president of [REDACTED] products, Inc., in Fort Worth, Texas. In her affidavit, Ms. [REDACTED] stated that she had known the applicant's father and his family since 1972. Ms. [REDACTED] declared that the applicant's father subsequently introduced his eldest daughter (the applicant) to her in 1981. Ms. [REDACTED] indicated that she was introduced to the applicant while her family was living in Dallas, Texas and the family now lived in Houston, Texas.

On appeal, the applicant submits another affidavit dated March 1, 2003, and signed by [REDACTED]. In his affidavit, Mr. [REDACTED] stated that he had known the applicant's father since 1971. Mr. [REDACTED] declared that the applicant's father subsequently introduced his eldest daughter (the applicant) to him in 1981. Mr. [REDACTED] indicated that he was introduced to the applicant while her family was living in Dallas, Texas and the family now lived in Houston, Texas.

In this instance, the applicant submitted evidence, including affidavits and contemporaneous documents, which tends to corroborate her claim of residence in the United States during the requisite period. The district director has not sufficiently 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.