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U.S. Citizenship and Immigration Services

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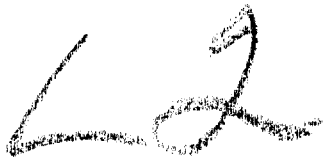

FILE: [redacted] Office: Los Angeles, California Date: JAN 31 2005

IN RE: Applicant: [redacted]

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, Los Angeles, 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, the applicant reaffirms his claim to continuous residence in the U.S. from before January 1, 1982 to May 4, 1988 and submits additional evidence in support of his claimed residence.

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). Preponderance of the evidence has also been defined as "evidence which as a whole shows that the fact sought to be proved is more probable than not." Black's Law Dictionary 1064 (5th ed. 1979).

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).

In an attempt to establish continuous unlawful residence since before January 1, 1982, as claimed, the applicant furnished the following evidence:

- A letter from Reverend [redacted] C.M.F., Our Lady Queen of Angels Church, Los Angeles, California, dated April 20, 1990, who attests to the applicant having been a member of his parish since 1981 and that the applicant attended services on a regular basis;

- An affidavit from [redacted] dated April 19, 1990, who attests to having met the applicant at a Christmas party in the building where they both lived in Los Angeles, California, in December 1981;

- An affidavit from [redacted] dated April 18, 1990, attesting to the applicant having resided in the same apartment building as she from May 1981 to March 1984. The affiant states she used to work with the applicant's wife;

- An affidavit from who attests that she is a United States citizen and that she is the applicant's daughter. The affiant states that she remembers her father always being a part of her life from the time she was 4 years old;

- A photocopied California Identification Card and Driver's License issued to indicating that her date of birth is July 7, 1981;

- A photocopied California Immunization Record issued to containing an initial immunization date of August 6, 1982;

- A photocopied school photo and report card attributed to dated 1991-92 and 1994, respectively;

- A photocopied baptism certificate from Our Lady Queen of Angels Church, Los Angeles, California, made out to dentified as a child of the applicant, dated June 21, 1987;

- Four separate photocopied cash receipts and an airline ticket stub made out to the applicant, dated December 23, 1982, July 23, 1984, December 9, 1986, December 2, 1988, and December 15, 1994, respectively;

- A photocopied automobile sales agreement indicating that the applicant purchased an automobile in Los Angeles, California on August 10, 1987;

- Photocopies of the applicant's Form 1040 U.S. Individual Income Tax Returns for the years 1996 through 2000.

In this instance, the applicant has submitted contemporaneous documentation as well as *four* affidavits and third party statements attesting to his continuous residence in the U.S. during the period in question. The director has not established that the information in the affidavits was inconsistent with the claims made on the application, or that it was false information. Affidavits in certain cases can effectively meet the preponderance of evidence standard. 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, including affidavits submitted by acquaintances, who are willing to testify in this matter, 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 establishes, 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.