

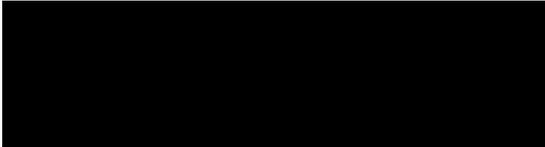
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U.S. Department of Homeland Security
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Washington, DC 20529



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



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FILE: [REDACTED] Office: LOS ANGELES Date: **JAN 31 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.

A handwritten signature in cursive script, appearing to read "Robert P. Wiemann".

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.

It is noted that the director, in denying the application, did not address the evidence furnished initially, and in response to the Notice of Intent to Deny, and did not set forth the specific reasons for the denial pursuant to 8 C.F.R. § 103.3. As such, the documentation throughout the application process will be considered on appeal.

On appeal, the applicant makes reference to having submitted sufficient documents in response to the Notice of Intent to Deny, which demonstrates continuous residence in the United States. The applicant submits copies of the documents that were previously submitted.

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).

In an attempt to establish continuous unlawful residence since before January 1, 1982 through May 4, 1988, the applicant furnished the following evidence:

- A letter from [REDACTED] indicating that the applicant was in his employ as a paint-maker from February 1984 through August 1983.
- A letter dated March 27, 1990 from [REDACTED] representative of M.F. & S.G. Corporation who indicated that the applicant was employed as a machine operator from September 1983 to February 1985.
- A letter dated March 30, 1990 from [REDACTED], owner of Spanish Travel who indicated that the applicant was employed as a janitor from March 1985 through November 1986.
- A letter dated March 22, 1990 from [REDACTED] plant manager of American Textile Conditioners who indicated that the applicant was employed as a truck driver from February 1987 through March 21, 1990.

- 1987 and 1988 Wage and Tax Statements and several earning statements from American Textile Conditioners, Inc. issued in 1987 and 1988.
- A California identification card and driver license issued on February 19, 1987 and April 28, 1987, respectively.
- A California birth certificate for birth of his child on May 4, 1987.
- Two achievement awards issued on August 21, 1987 from the Central Adult High School.
- A Central Adult High School identification card, which expired on June 30, 1988.
- A notarized affidavit dated April 4, 1990 from [REDACTED] who indicated that the applicant resided with her from October 1981 through February 1987 in Los Angeles, California.
- A notarized affidavit from [REDACTED] Aguirre who attested to the applicant's residence in Los Angeles, California since July 1982.
- A notarized affidavit from [REDACTED] who attested to the applicant's residence in Los Angeles, California since June 1982. [REDACTED] asserted that he has been acquainted with the applicant since his first attended Saint Agnes Church in June 1982.
- A notarized affidavit from [REDACTED] who attested to the applicant's residence in Los Angeles, California since January 1983.
- A notarized affidavit from [REDACTED] who attested to the applicant's residence in Los Angeles, California since June 1982. [REDACTED] asserted that he has maintained close contact with the applicant since June 1982.
- A notarized affidavit from [REDACTED] who attested to the applicant's residence in Los Angeles, California since November 1982.
- A letter from [REDACTED], director of religious education at Saint Agnes Church in Los Angeles, California who indicated that the applicant has been a member of its church since June 5, 1982.

In this instance, the applicant submitted several affidavits and letters attesting to his residence and employment in the U.S. during the period in question. 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 individuals most of whom have provided their current addresses and indicated their willingness to come forward and testify in this matter if necessary, 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.