



U.S. Citizenship
and Immigration
Services

identifying data deleted to
prevent disclosure of unwaranted
invasion of personal privacy

PUBLIC COPY

LA
JUN 06 2005



FILE: [Redacted] Office: LOS ANGELES Date:

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.


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 (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 asserts that he would be sending a brief and/or evidence to the AAO within 30 days to establish that he was physically present in the United States prior to January 1982. To date, no additional documentation has been presented by the applicant.

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

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

- Several rent receipts issued during 1986, 1987 and 1988 for residence at [REDACTED]
- His children's January 3, 1982, and September 13, 1983 birth certificates
- His February 4, 1981 marriage certificate filed with the Los Angeles County Registrar-Recorder on February 8, 1981.
- An affidavit from [REDACTED] who attested to the applicant's residence in Los Angeles, California since March 1981. Ms. [REDACTED] asserted that the applicant resided in the same apartment building and that she had been good friends with the applicant since that time.

- An affidavit from [REDACTED] who attested to the applicant's residence in Los Angeles, California since January 1980. Mr. [REDACTED] indicated that the applicant had been a customer in his store.
- An affidavit from [REDACTED] who attested to the applicant's residences in Los Angeles, California since January 1980. Ms. [REDACTED] asserted that the applicant's spouse was a babysitter for her children.
- A letter from [REDACTED] owner of The Stitch Works in Los Angeles, California who indicated that the applicant was in his employ as an operator in 1982 and 1983.
- An affidavit from [REDACTED] who attested to the applicant's residence in Los Angeles, California since March 1986. Mr. [REDACTED] indicated that he had been the applicant's landlord since 1986.

In this instance, the applicant submitted evidence, including contemporaneous documents, 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.