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U.S. Citizenship
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MAR 02 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 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 submits additional documentation in an attempt to establish continuous residence in the United States from prior to 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.

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:

- A notarized affidavit from his [REDACTED] who attested to the applicant's residences in California since October 1981.
- Notarized affidavits from [REDACTED] and Adela Villegas who attested to the applicant's residence in the United States since October 1981.
- A notarized affidavit from [REDACTED] who indicated that applicant was in his employ as a helper in gardening services from December 6, 1981 through December 12, 1983.
- A notarized affidavit [REDACTED] who attested to the applicant's residence in Northridge, California since 1982 [REDACTED] indicated that he was a co-worker at Denny's Restaurant.

- A letter dated April 3, 1990 from [REDACTED] general manager of Denny's Restaurant in Northridge, California who indicated that the applicant has been employed since April 29, 1982.
- Wage and Tax Statements from Denny's Inc., for 1984, 1985, 1986, and 1987.
- A high school identification card (ID) and school transcripts for 1984 through 1985.
- A document from the California Department of Motor Vehicles indicating that a California ID card in the applicant's name was issued in 1984.
- Notarized affidavits from [REDACTED] who indicated that they have known the applicant since 1981.
- Notarized affidavits from [REDACTED] attested to the applicant's residence in the United States in since December 1981.
- Notarized affidavits from [REDACTED] who attested to the applicant's residence in the United States in since November 1981.

The letter from [REDACTED] has little probative value or evidentiary weight as the year the applicant's employment commenced appears to have been altered. In addition, the applicant submitted a wage and tax statement allegedly for 1988; however, the original year has been erased and the number "88" has been handwritten. In a declaration dated May 12, 2004, the applicant asserted that he attempted to obtain his employment record from 1982 through [REDACTED] but was informed, "they do not keep employee records that are older than 5 years." Because no explanation has been provided for the alterations on Ms. [REDACTED] letter and the wage and tax statement allegedly for 1988, only employment from 1984 through 1987 at Denny's will be accepted

Nevertheless, 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.