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U.S. Department of Homeland Security
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Washington, D.C. 20529



U.S. Citizenship
and Immigration
Services



22

FILE:



Office: LOS ANGELES

Date:

MAR 09 2005

IN RE:

Applicant:



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:



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, counsel asserts that the applicant's home was robbed in 2000 and that his brief case that contained "all the documents submitted to the Citizenship and Immigration Services" was taken. Counsel provides a copy of the applicant's police report.

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 [REDACTED] who attested to the applicant's residences in Los Angeles, California since September 1981.
- Notarized affidavits from [REDACTED] and [REDACTED] (last name illegible) who attested to the applicant's residences in Los Angeles, California since December 1981.
- A letter from a representative of the Los Angeles [REDACTED] who indicated that the applicant has been an active participant since 1981.
- A letter and rent receipts from [REDACTED] who indicated that the applicant was his employ as a housekeeper from September 1981 through March 1985.
- A Social Security Statement issued on June 6, 2003 reflecting the applicant's earnings from 1986 through 2002.

- A 1987 Wage and Tax Statement and Individual Income Tax Return.
- A 1986 and 1988 Wage and Tax Statement.
- A copy of the applicant's personal check with Bank of America indicating the applicant has been a customer since 1985.
- Bank receipts from Security Pacific National Bank dated September 20, 1985 and October 17, 1986
- Envelope postmarked to the applicant on December 26, 1985 and December 22 and 24, 1987.
- An earnings statement for the period ending October 28, 1985 from [REDACTED] in Los Angeles, California

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.