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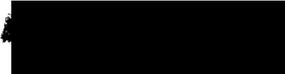


U.S. Citizenship  
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Services

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FILE:



Office: Los Angeles, CA

Date: **APR 06 2006**

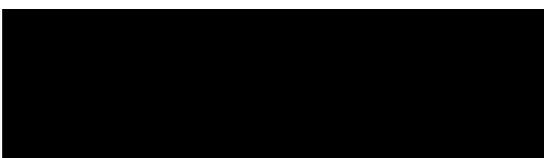
IN RE:

Applicant:



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.

A handwritten signature in black ink, 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, 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. In denying the application the director points to inconsistencies in the applicant's statements surrounding his employment and his departures from the United States. *Notice of Intent to Deny*, dated June 21, 2004.

On appeal, counsel asserts that the evidence submitted established that the applicant resided continuously in the U.S. from before January 1, 1982 to May 4, 1988. *Form I-290B*, dated August 8, 2004.

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 (5<sup>th</sup> 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 Form I-687 Application for Status as a Temporary Resident dated August 17, 1989.
- Copies of envelopes mailed by the applicant from the United States to Mexico showing postmarked dates during the years 1981, 1982, 1984, 1985, and 1986.
- Copies of the applicant's California Identification Cards issued in 1978 (expired in 1981), 1980 (expired in 1986), 1986 (expired in 1992), and 1989 (expired in 1992).
- A copy of a pay stub from Kobayashi Trading Company, Inc. to the applicant showing a pay date of October 3, 1980.
- An employment letter from [REDACTED] at TGIF Inc., stating that according to their records the applicant was employed there from May 19, 1981 to October 18, 1982. The letter contains the address and telephone number for TGIF, Inc.

- A letter from Frank Lira, the owner of Mark's Barber Shop in Santa Monica, CA, dated November 17, 1989. Mr. Lira stated that the applicant has been a client of his since 1981. He states that in September or October of 1981 the applicant helped him replace the tile floor in his shop. Mr. Lira supplied his phone number for verification.
- A letter from [REDACTED] the applicant's cousin stating that the applicant lived with him and his brother in an apartment [REDACTED]. The applicant lived there from 1982 to 1984. [REDACTED] states his address and phone number for verification.
- A request to employee for social security information of the applicant from DBA Mor Food N' Fun and National Pizza Company dated 1984.
- Copies of the applicant's pay stubs with dates in 1984 from DBA Mor Food N' Fun and TGI Friday's Inc.
- A copy of an ID Card from Mor Food N'Fun with a hire date of November 1984.
- A letter from Jeff Gola, General Manager at Gladstone's, dated September 12, 1989, stating that the applicant was an employee at RJ's, The Rib Joint since December 5, 1984. Mr. Gola's address and phone number is included for verification.
- Receipts for registered mail sent by the applicant in the United States with date stamps of February 12, 1985 and May 31, 1986.
- Purchaser's receipts from Bank of America for international money orders signed by the applicant with the dates May 31, 1985, April 4, 1986, and March 7, 1988.
- A purchaser's receipt from Sears showing a date stamp of April 24, 1986.
- An employer letter from [REDACTED] November 10, 1988 and stating that the applicant was employed at the [REDACTED] starting February 1, 1988.
- A copy of a utility bill from 1988.
- Pay stubs from [REDACTED] for dates in 1988, 1989, and 1990.
- A pay stub from [REDACTED] from 1989.
- A copy of the applicant's school ID from [REDACTED] showing dates of 1990 & 1991.
- Receipts showing cash received from the applicant with dates in 1990 & 1991.
- A copy of a Westside Alternative Sentencing Program sheet for the applicant showing dates of September 6, 1990.

- A print out from the California Department of Motor Vehicles for the applicant showing dates of 1996, 1998, 2000 and 2002.

The applicant also submitted a statement stating that he first entered the United States on or about May 11, 1977 by crossing the border without inspection. He states that after his first entry he departed the United States five times for brief casual absences to visit family in Mexico. He explains that he has trouble remembering his employment history since 1977. Specifically, he explains that he did not remember the exact dates of employment with [REDACTED]. He previously stated that he worked at [REDACTED] from 1982-2000. He know remembers that he worked part-time for [REDACTED] the early 1980's and did not start to work full time until 1988. The applicant further explains that in addition to his employment at [REDACTED] he worked several different places. Some of these jobs were part-time, others were temporary, and others were full time and permanent. He states that he did not have a valid social security card during the early 1980's nor did he have work authorization so it is difficult for him to obtain a social security print out to show that he worked in the early 1980's. *Applicant's Statement*, Exhibit G.

In this instance, the applicant has submitted five statements and 16 documents attesting to his continuous residence in the U.S. during the requisite period. Included in his documentation are copies of California State issued identification cards for the years 1978, 1980, 1986, and 1989.

The AAO notes that the record included some minor inconsistencies regarding the applicant's residence from 1982 to 1984, his dates of employment in the 1980's and the number of departures he made from the United States. The AAO also notes that it may be difficult for applicants to recall details of their lives many years in the past and minor inconsistencies are reasonably expected. In the applicant's case the documentation provided outweighs these minor inconsistencies.

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. This decision also states that under the preponderance of evidence standard, an application may be granted even though some doubt remains regarding the evidence.

Therefore, the documentation provided by the applicant does establish, 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.

**ORDER:** The appeal is sustained.