



U.S. Citizenship
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Services

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[REDACTED]

FILE:

[REDACTED]

Office: LOS ANGELES, CA

Date: MAR 28 2006

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:

[REDACTED]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has been returned to the District Office. 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.

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, CA, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The district director denied the application because the applicant had not demonstrated that she 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 qualifies for relief in that she did enter the United States before January 1, 1982 and has continuously resided in the United States since that time.

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 (5th 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 under Section 245A of the Immigration and Nationality Act, filed on July 22, 1993 stating that her first residence in the United States began in 1981.
- A class membership questionnaire stating that the applicant first entered the United States in February 1981.
- A statement from the applicant asserting that she entered the United States in February 1981 and listing her residences and employment from that time to the present.
- A statement from [REDACTED] the property manager of an apartment complex located at [REDACTED]. Ms. [REDACTED] states that the applicant has been a tenant since February 1981.
- An affidavit from [REDACTED] dated July 12, 1993 and stating that she has knowledge of the applicant residing in Santa Ana, CA from February 1981 to the present. She states that she was friends with the applicant in Mexico and when the applicant first came to the United States she stayed

with her. Ms. [REDACTED] states that the applicant worked as her babysitter from 1987 to 1990 when she obtained a job in a factory.

- An affidavit from [REDACTED] dated July 9, 1993 and stating that she has known the applicant since February 1981. She states that she met the applicant through her close friend, the applicant's brother. She states that the applicant worked for her as a babysitter when she first arrived in 1981 until 1986. They are very close friends.
- An affidavit from [REDACTED] dated July 9, 1993 and stating that he has known the applicant since February 1981. She states that she met the applicant through a mutual friend and that the applicant is a good friend of her daughter.
- An affidavit from [REDACTED] dated July 10, 1993 and stating that she has known the applicant since February 1981 when she met her at a social gathering. She states that four years ago she was able to get the applicant a job at the factory where she works.
- An affidavit from [REDACTED] stating that he gave the applicant a ride to the bus station in Tijuana on May 9, 1987 and that the applicant returned to his home early in the morning of May 30, 1987 by a coyote who crossed her at the border.
- An affidavit from [REDACTED] dated July 10, 1993 and stating that she has known the applicant since February 1981 because the applicant has been a client of hers since that time. She is a regular purchaser of the Avon products that Ms. [REDACTED] sells.
- Envelopes addressed to the applicant with date stamps for the years 1981, 1982, 1983, 1985, 1986, 1987, 1988, 1989, and 1990.
- A letter from her employer, [REDACTED] stating that the applicant has been an employee there from February 22, 1990 to September 2, 1999.
- Copies of pay stubs for the years 1990 to 1994, 1997, 1998, and 1999.
- Tax returns from 1990 to 1995.
- Telegraphs to the applicant in the United States for dates in 1990 & 1993.
- A copy of a check card from Bank of America dated 1993.
- A Purchaser's Receipt made out to the applicant from June 12, 1994.
- A California Driver's Licenses issued in 1995, 1998, and 1999.
- The applicant's marriage certificate dated August 19, 1995.
- A receipt from car dealership made out to the applicant with a date of January 14, 1996.

- A copy of the applicant's insurance bill with dates for 1997 & 2000.
- Copies of cable bills from 1999.
- Utility bills from 2000 & 2001.
- A receipt from Mexico Express dated March 11, 2001.

In this instance, the applicant has submitted eight affidavits and third party statements as well as various documents attesting to her continuous residence in the United States during the requisite period. The evidence submitted by the applicant and statements made by the applicant about her employment when she first entered the United States are not consistent. The applicant made a previous statement that when she first entered the United States she worked for Ms. [REDACTED] from 1981-1990. The affidavit submitted by Ms. [REDACTED] the affidavit submitted by Ms. [REDACTED] and the applicant's I-687 Form states that the applicant worked as a babysitter for Ms. [REDACTED] during the years 1981-1986 and then worked for Ms. [REDACTED] as a babysitter from 1987 to 1990. In addition, the envelopes submitted by the applicant with postmarks from the years 1981-1983 & 1985-1990 are of a questionable nature. The envelopes are all exactly the same type, the writing on the envelopes seems to be written with the same pen, and the older envelopes show no signs of aging. These factors as well as the inconsistent statements made by the applicant seriously weaken her credibility and her ability to establish that she entered the United States before January 1, 1982.

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. The applicant has established that she resided in the United States starting in 1990, but has not submitted credible evidence that she resided in the United States since before January 1, 1982.

Therefore, the documentation provided by the applicant does not 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 dismissed.

ORDER: The appeal is dismissed.