

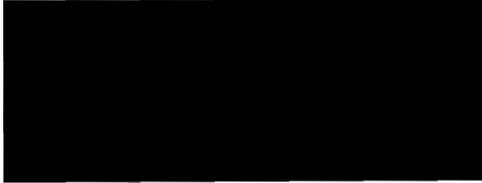


U.S. Citizenship  
and Immigration  
Services

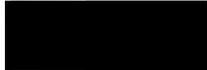
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FILE:



Office: Los Angeles, CA

Date: MAR 03 2006

IN RE:



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 she had continuously resided in the United States in an unlawful status from before January 1, 1982 through May 4, 1988.

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:

- An affidavit from [REDACTED] the applicant’s employer, dated June 8, 2001 stating that the applicant lived with her family from June 1, 1981 to December 1983.
- A second affidavit from [REDACTED] dated July 2, 1993 stating that she has known the applicant since June of 1981 and to her knowledge the applicant has been in the United States until December 1983. Ms. [REDACTED] states that during this time she employed the applicant as a babysitter.
- Copies of seven postmarked envelopes sent by the applicant to her mother in Mexico with the dates July 22, 1982, September 17, 1982, November 13, 1982, August 10, 1983, June 25, 1984, March 4, 1985, and June 1986.
- Pay stubs from the applicant’s employer [REDACTED] with dates for November and December, 1984.
- A payment receipt from Pacific Telephone with a date of June 29, 1984.
- An appointment slip from a doctor’s office with a date of September 5, 1984.

- Three ambulatory care services receipts with dates of November 28, 1984, December 12, 1984, and January 16, 1985.
- The birth certificate for the applicant's daughter, born in California on February 19, 1985.
- A receipt from February 27, 1985.
- Pay stubs from [REDACTED] with dates from February 1985.
- A receipt for rent paid from May 1, 1986.
- Copies of rental receipts from 1989 and 1990.
- A copy of the Form G-361 filed with the Immigration and Naturalization Service on January 18, 1995, showing her date of entry as June 1981.

- An affidavit from [REDACTED] a personal friend of the applicant. Ms. [REDACTED] states that she first met the applicant in October 1981 because the applicant's aunt was living with her. She states that she saw the applicant at least once a week from 1981 to 1990. She states that they used to hold religious services in her home on Saturdays and the applicant often participated. After the applicant moved to Riverside, CA, she and Ms. [REDACTED] stayed in touch by phone and the applicant will still visit her from time to time.

An affidavit from [REDACTED] a personal friend of the applicant's family. Mr. [REDACTED] states that the applicant's aunt was his wife's friend and the applicant would visit his house often with her aunt. Mr. [REDACTED] first met the applicant in the middle of 1981. The applicant was 22 years old at the time and would visit Mr. [REDACTED] house once a week for about four years, from 1981-1985.

- An affidavit from Ms. [REDACTED], the applicant's hair stylist. Ms. [REDACTED] attests to knowing the applicant since November 1981 to the present because the applicant has been a client in her hair salon.
- An affidavit from the applicant's aunt [REDACTED] dated September 22, 2004. Her aunt states that she has known the applicant from birth and that she is the sister of the applicant's mother. Her aunt states that when the applicant entered the United States in June of 1981 she came to live with her. The applicant stayed in her home for a few days and then went to live with Ms. [REDACTED] as a live in babysitter. The applicant's aunt explains that the applicant lived with Ms. [REDACTED] from Monday to Saturday and would visit her on Sundays. Her Aunt states that the applicant worked for Ms. [REDACTED] until December 1983 and then she moved back in with her until April 1989. She states that the applicant found a job in a factory for six months and then began working at [REDACTED] Inc. In 1985 the applicant's daughter was born and at this time the applicant stayed at home to care for her child. She states that when the applicant lived with her, from December 1983 to April 1989 she and the applicant did all their cooking, cleaning, and eating together.

- A second affidavit from the applicant's aunt, [REDACTED] dated June 26, 2003 attesting to the applicant's addresses in California for the years 1981-2000.
- Pictures of the applicant in Los Angeles from the dates, December 12, 1981, October 1982, February 1984, April 1984, February 1985, and March 1985.
- California Department of Motor Vehicles printout showing the applicant's address in 1984 as being in California.
- County of Los Angeles Tuberculosis Skin Test Report from November 10, 1984.
- Los Angeles County Child's Health Record for the applicant's daughter for 1985 and 1986.
- Baptismal Certificate for the applicant's daughter dated April 12, 1986.
- A California Department of Motor Vehicles Identification Card issued on May 5, 2005.

In this instance, the applicant has submitted six affidavits and numerous documents attesting to her continuous residence in the U.S. during the period in question. Affidavits in certain cases can effectively meet the preponderance of evidence standard. The director has not established that any of the information in the affidavits and statements submitted by the applicant was false or inconsistent or at variance with the claims made by the applicant on the application.

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, including affidavits furnished by affiants who have provided their current addresses and phone numbers and have indicated their willingness to come forward and testify in this matter if necessary, 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 establishes, 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.