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U.S. Citizenship
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FILE: [Redacted]
MSC 02 065 61983

Office: Los Angeles

Date: **MAR 24 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: 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. 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.

2 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 (AAO) on appeal. The appeal will be sustained.

The director concluded the applicant had not established that he had continuously and unlawfully resided in the United States during the entire qualifying period from January 1, 1982 through May 4, 1988 and, therefore, denied the application.

On appeal, the applicant submits an affidavit from his cousin, affirming that the applicant "has been in the United States since the early eighties."

An applicant for permanent resident status under section 1104 of the LIFE Act must establish that he or she entered the United States before January 1, 1982 and resided in this country continuously in an unlawful status from before January 1, 1982 through May 4, 1988. *See* section 1104(c)(2)(B)(i) of the LIFE Act and the regulations at 8 C.F.R. § 245a.11(b).

The record contains a Form I-687, Application for Temporary Resident Status, filed on April 24, 1993. On the Form I-687, the applicant stated that he had worked at the following locations: [REDACTED] in Santa Ana, California from December 8, 1981 to September 1, 1983; [REDACTED] in San Mateo, California from September 1, 1983 to August 20, 1985; [REDACTED] in San Francisco from August 25, 1985 to November 30, 1985; and with [REDACTED] in Irvine, California from November 30, 1985 until the date of his signature on the Form I-687.

The record also contains the following documentation:

- An April 30, 1992 affidavit from [REDACTED] who stated that the applicant worked for his company, [REDACTED], from December 8, 1981 to September 1, 1983. The applicant states that he did not maintain pay receipts from his work for [REDACTED] and that the company is currently out of business.
- A November 17, 2001 affidavit from [REDACTED] of [REDACTED], who stated that he employed the beneficiary from October 1983 to April 1984, and again from October 1984 to April 1985.
- Forms W-2, Wage and Tax Statements, from [REDACTED] for 1983, 1984 and 1985, and from [REDACTED] for 1986, 1987 and 1988. The record includes an incomplete copy of a 1984 Form W-2 that does not identify the employee or fully disclose the identity of the employer
- Copies of the applicant's Forms 1040A, U.S. Individual Income Tax Returns, for the years 1987 and 1988. These tax returns are not certified and do not indicate that they were filed with the Internal Revenue Service.
- Copies of photographs that are purportedly of the applicant, and which he has annotated with the years 1982, 1983 and 1984. The record also contains July 26, 2004 sworn affidavits from the

applicant's cousin and his aunt, identifying one of the photographs as those of the cousin, her boyfriend and the applicant in 1982.

- A June 15, 2003 letter from the Social Security Administration reporting earnings for the applicant during the qualifying period for the years 1983 through 1988.
- A copy of the applicant's 1984 California driver's license.
- A copy of a postcard to the applicant dated 1986, which does not contain a postmark.
- A November 12, 2001 sworn affidavit from [REDACTED] who stated that she met the applicant in February 1982 at night school while both were taking English classes, and has been friends with him since that time.
- An October 29, 2001 sworn affidavit from [REDACTED] stating that he met the applicant in June 1982 and has "kept in close communication" with him since that time.

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). The "preponderance of the evidence" standard requires that the evidence demonstrate that the applicant's claim is "probably true," where the determination of "truth" is made based on the factual circumstances of each individual case. *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm. 1989). In evaluating the evidence, *Matter of E-M-* also stated that "[t]ruth is to be determined not by the quantity of evidence alone but by its quality." *Id.* Thus, in adjudicating the application pursuant to the preponderance of the evidence standard, the director must examine each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true.

Even if the director has some doubt as to the truth, if the petitioner submits relevant, probative, and credible evidence that leads the director to believe that the claim is "probably true" or "more likely than not," the applicant or petitioner has satisfied the standard of proof. *See U.S. v. Cardozo-Fonseca*, 480 U.S. 421 (1987) (defining "more likely than not" as a greater than 50 percent probability of something occurring). If the director can articulate a material doubt, it is appropriate for the director to either request additional evidence or, if that doubt leads the director to believe that the claim is probably not true, deny the application or petition.

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 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 in *Matter of E--M--*, *supra*, when something is to be established by a preponderance of evidence, the applicant only has to establish that the asserted claim 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.