U.S. Department of Homeland Security
20 Massachusetts Ave. NW, Rm. A3042
Washington, DC 20529

U.S. Citizenship and Immigration Services

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PUBLIC COPY

[redacted]

FILE: [redacted] Office: Los Angeles, California Date: OCT 21 2004

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. The file has been returned to the Los Angeles 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.

Ellen C. Johnson

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. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be sustained.

The district director concluded that the applicant failed to establish, by a preponderance of the evidence, that he entered the United States before January 1, 1982 and resided in this country continuously in an unlawful status through May 4, 1988.

On appeal the applicant listed the evidence he had previously submitted and asserts that it shows he was a continuous resident of the United States from 1981 onward.

An applicant for permanent resident status under section 1104 of the LIFE Act must establish that before October 1, 2000, he or she filed a written claim with the Attorney General for class membership in one of the following legalization class-action lawsuits: *Catholic Social Services, Inc. v. Meese*, vacated sub nom. *Reno v. Catholic Social Services, Inc.*, 509 U.S. 43 (1993) ("*CSS*"), *League of United Latin American Citizens v. INS*, vacated sub nom. *Reno v. Catholic Social Services, Inc.*, 509 U.S. 43 (1993) ("*LULAC*"), or *Zambrano v. INS*, vacated sub nom. *Immigration and Naturalization Service v. Zambrano*, 509 U.S. 918 (1993) ("*Zambrano*"). *See* section 1104(b) of the LIFE Act and 8 C.F.R. § 245a.10.

The record indicates that the applicant filed a timely claim in 1990 for class membership in *LULAC*.

An applicant for permanent resident status under section 1104 of the LIFE Act must also 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 8 C.F.R. § 245a.11(b).

8 C.F.R. § 245a.12(e) provides that "[a]n alien applying for adjustment of status under [section 1104 of the LIFE Act] has the burden of proving by a preponderance of the evidence that he or she has resided in the United States for the requisite periods. . . . The inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification." As explained in *Matter of E-M-*, 20 I & N Dec. 77, 80 (Comm. 1989), "when something is to be established by a preponderance of the evidence it is sufficient that the proof only establish that it is probably true." The decision went on to declare that, in the absence of contemporaneous documentation, affidavits are "relevant documents" which warrant consideration in legalization proceedings. *Id.* at 82-83. 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).

When the applicant filed his claim for class membership in *LULAC* with the Immigration and Naturalization Service (INS) he indicated on his Form I-687, Application for Status as a Temporary Resident (Under Section 245A of the Immigration and Nationality Act), dated August 14, 1990, and his Affidavit for Determination of Class Membership in *LULAC*, dated September 16, 1990, that he first entered the United States without inspection at San Ysidro, California, in November 1981 and resided for the rest of the 1980s at five different addresses in and around Los Angeles. They included (1) [redacted] November 1981 to November 1982, (2) [redacted] in Glendale, November 1982 to April 1986, (3) [redacted] May 1986 to May 1987, (4) [redacted] June 1987 to May 1989, and (5) [redacted] June 1989 to the present (August 1990). The applicant also listed two employers on his I-687 form. They included (1) [redacted] in Pasadena, where the applicant stated that he worked as a "laborer" at $2.15 an hour from November 1981 to June 1983, and (2) J.J. Auto Detail, [redacted] in Los Angeles, where the applicant stated that he worked as a "manager" at $8.00 an hour from June 1983 to date (August 1990).

As evidence of his employment at those locales the applicant submitted two letters. One was from resident of n Los Angeles, dated September 10, 1990, stating that "[the applicant] was employed by me as a gardener from 1981 through 1983. From 1983 to the present he has been employed as [a] supervisor at a car wash." The second letter, undated, was written by (last name illegible) on the letterhead of J J's Hand Car Wash, Auto Detailing, at in Los Angeles, stating that "[the applicant] has been an employee for approximately seven years. [He] is currently employed at the business in the position of manager." In addition, the applicant submitted a letter from the owner of J & P Allen Construction in Los Angeles, dated August 21, 1990, stating that the applicant had been a friend of hers for the past seven years and that she had "observed [the applicant] at his place of employment for the past five years . . . [The applicant] is the manager of J.J.'s Hand Car Wash." Lastly, the applicant submitted three letters, one dated September 9, 1990, one dated September 26, 1990, and the other undated, from Los Angeles area residents who claim to have known the applicant in the United States since 1981, one of whom asserted that the applicant mowed her lawn and washed her car at J.J.'s and another of whom asserted that he rented an apartment with the applicant.

In support of his LIFE application (Form I-485), filed in August 2001, the applicant submitted additional evidence of his residence and employment in the Los Angeles area during the 1980s. That evidence included, among other documents, (1) a letter from the E. Manfred Evans Community Adult School, dated July 1, 2001, verifying that the applicant took a course of English as a second language from November 15, 1981 to April 6, 1982, (2) a letter from the pastor of the Divine Savior Catholic Church at 610 Cypress Avenue, dated July 23, 2001, stating that the applicant was a practicing member of the parish from 1982 to 1992, (3) photocopied pay statements from J. J.'s Hand Car Wash to the applicant for the time periods September 15-30, 1983, and February 1-15, 1984, (4) numerous bank records, tax returns, community college records, and rental statements documenting the applicant's residence and employment in and around Los Angeles during the years 1986-1988, and other assorted materials.

Based on the extensive documentation furnished by the applicant, the AAO finds it more probable than not that he entered the United States before January 1, 1982 and resided in the United States continuously and unlawfully from before January 1, 1982 through May 4, 1988.

The AAO determines that the applicant has met his burden of proof. He has established, by a preponderance of the evidence, that he resided in the United States continuously in an unlawful status from before January 1, 1982 through May 4, 1988, as required under 1104(c)(2)(B)(i) of the LIFE Act and 8 C.F.R. § 245a.12(e).

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.