



U.S. Citizenship
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FILE:



Office: LOS ANGELES

Date: MAR 08 2008

IN RE:

Applicant:



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. Any further inquiry must be made to that office.

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 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.

On appeal, the applicant asserts that he has submitted sufficient documentation establishing continuous residence in the United States from prior to January 1, 1982 through May 4, 1988. The applicant provides copies of previously submitted documents in support of the appeal.

It is noted that the director, in denying the application, did not set forth the specific reasons for the denial pursuant to 8 C.F.R. § 103.3. As such, the documentation submitted throughout the application process will be considered on appeal.

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. 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).

When something is to be established by a preponderance of the evidence it is sufficient that the proof establish that it is probably true. *See Matter of E-- M--*, 20 I. & N. Dec. 77 (Comm. 1989).

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 an attempt to establish continuous unlawful residence since before January 1, 1982 through May 4, 1988, the applicant provided the following evidence throughout the application process:

- Affidavits notarized October 29, 1990 from [REDACTED] of Santa Monica, California who attested to the applicant's residences from October 1981 to January 1983 at [REDACTED] Pasadena, California and since January 15, 1983 at [REDACTED] California. Ms. [REDACTED] based her knowledge on having being a co-tenant.
- A letter from [REDACTED] indicating that the applicant has been in her employ as a painter in the Santa Monica and Malibu area since January 1983.
- Affidavits notarized in October 1990 from [REDACTED] of Los Angeles, [REDACTED] of Pacific Palisades, and [REDACTED] of Malibu who indicated they met the applicant

through a friend in 1981 and attested to the applicant's residences in Pasadena and Santa [REDACTED] since October 1981.

- A statement from [REDACTED] of Santa Monica, California who indicated she met the applicant through a friend in 1981 and attested to the applicant's residences in Pasadena and Santa Monica since October 1981.
- An installation labor receipt dated March 7, 1987 from Circuit City.
- Envelopes postmarked in 1984, 1985 and 1987 and addressed to the applicant's address at [REDACTED] Santa Monica, California.
- Envelopes postmarked in 1982 and 1983 and addressed to the applicant's address at [REDACTED], Pasadena, California.
- A letter dated May 29, 1990 from Reverend [REDACTED] pastor of [REDACTED] in Los Angeles, California who indicated that the applicant has been a member of the parish since 1981.
- An affidavit notarized June 14, 1991 from [REDACTED] (last name indecipherable) of Santa Monica, California who indicated he met the applicant through a friend in 1981 and attested to the applicant's residences in Pasadena and Santa Monica since October 1981.
- A notarized affidavit from [REDACTED] president of American Promotion International Sport who indicated that he has known the applicant since 1987 as the applicant used to play soccer with friends at the [REDACTED] facility in Los Angeles.
- A notarized affidavit from [REDACTED] who indicated that he has known the applicant since 1987.
- A notarized affidavit from [REDACTED] of Torrance, California who attested to the applicant's residence in Los Angeles County since 1986.
- A notarized affidavit from [REDACTED] of Boca Raton, Florida who indicated that he has known the applicant since 1986.
- A notarized affidavit from [REDACTED] of Los Angeles, California who attested to the applicant's residence in Los Angeles, California since June 1985.
- A notarized affidavit from [REDACTED] of Miami, Florida who indicated that he has known the applicant since 1985.
- A notarized affidavit from [REDACTED] of Key Biscayne, Florida who indicated that she has known the applicant since 1984.
- A notarized affidavit from [REDACTED] of West Covina, California who indicated that he met the applicant through mutual friends in April 1984 and attested to the applicant's residence in Los Angeles, California since that time.

- A statement dated October 5, 2001 from [REDACTED] of Northridge, California who indicated that she met the applicant at church in 1983.
- A notarized affidavit from [REDACTED] of Concord, California who indicated that he has known the applicant since 1983.
- A notarized affidavit from [REDACTED] of Mission Hills, California who attested to the applicant's residence in Los Angeles, California since February 1983. Mr. [REDACTED] indicated that he met the applicant at church.
- Letters dated October 10, 2001 from [REDACTED] and [REDACTED] owners/partners of [REDACTED] in Santa Monica, California who indicated that they met the applicant in 1982 at a Christmas party and have remained friends since that time.
- A notarized affidavit from [REDACTED] of Van Nuys, California who indicated she met the applicant through mutual friends and attested to the applicant's residence in Los Angeles, California since December 1981
- A letter dated October 4, 2001 from Reverend [REDACTED] of [REDACTED] [REDACTED] who indicated that the applicant has been a regular attendee of the parish since 1981.
- A letter dated December 2, 1987 from [REDACTED] club director of Club Argentina in Los Angeles, California who indicated that the applicant has been involved with Club Argentina since February 24, 1982.

The applicant also submitted envelopes, which he claimed were postmarked in 1986 and 1988. The postmarks are indecipherable and, therefore, have little probative value or evidentiary weight.

The director, in a Notice of Intent to Deny issued on July 12, 2004, informed that the applicant that the affidavits he had submitted lacked evidentiary value, as they did not contain sufficient information and corroborative documents. The director also informed the applicant that the receipts submitted by him had an address not previously listed by him on his Form I-687 application. The director determined that these discrepancies raised issues of credibility.

The applicant, in response, submitted a letter dated September 5, 1990 from a representative of Santa Fe Foods Corporation in Los Angeles, California who attested to the applicant's employment in the shipping department from December 14, 1981 through January 10, 1983. The applicant also submitted copies of previously submitted documents. Regarding the different addresses, the applicant asserted, "I gave relatives different addresses to write to me because I wanted privacy on where I lived at that time...."

Although the applicant did not specifically address the director's findings regarding the different address listed on the receipts, it does not mean such documents are to be disregarded, rather such documents must be considered in conjunction with the other supporting evidence, as well as the testimony of the applicant himself.

In the 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 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. In this case, the affidavits furnished by affiants who have provided their addresses and/or telephone 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 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.