

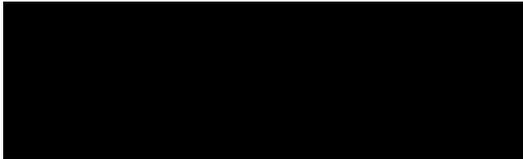
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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE:



Office: LOS ANGELES

Date:

AUG 23 2005

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 requests that his application be reconsidered.

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:

- An affidavit from [REDACTED] a co-worker, who indicated that he has been acquainted with the applicant since 1981 and attested to the applicant's residences in Gardena and Los Angeles, California.
- An affidavit from [REDACTED] who indicated that she met the applicant in December 1981 at his place of employment, and attested to the applicant's residences in Gardena and Los Angeles, California. [REDACTED] asserted that she is a friend of the applicant's employer.
- An employment letter dated September 20, 1990 and an affidavit notarized September 19, 1990 from [REDACTED] owner of S&R Company in Gardena, California who indicated that the applicant has been in his employ since 1981.

- An affidavit from [REDACTED] landlord, who attested to the applicant's residence at [REDACTED] from December 1981 to June 1986.
- An affidavit from [REDACTED] a landlord, who attested to the applicant's residence at [REDACTED] from June 1986 to June 1990.
- An affidavit from [REDACTED] who indicated that he has been acquainted with the applicant since 1981, and attested to the applicant's residences in Gardena and Los Angeles, California.
- 1984, 1985, 1986, and 1987 Individual Income Tax Returns received by the Internal Revenue Service (IRS) on November 14, 2003.
- A letter dated March 23, 2004 from the IRS indicating that its records reflect the applicant's tax accounts for 1984 through 1987 were currently paid in full.
- Immunization record reflecting vaccinations given on December 10, 1981 and March 5, 1982 at Pediatrics Inc. in Los Angeles, California
- A letter from Centinela Valley Union High School District in Lawndale, California attesting to the applicant's attendance from October 20, 1981 through December 16, 1983.
- A receipt dated May 23, 1988 from the California Department of Motor Vehicles.
- A Certificate dated June 15, 1987 for completion of an English as a Second Language program.
- A money order receipt dated November 28, 1986.

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 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 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.