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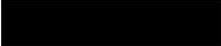


**U.S. Citizenship  
and Immigration  
Services**

**Identifying such notices to  
prevent clearly unwarranted  
invasion of personal privacy**



*[Handwritten signature]*  
JAN 27 2005

FILE: 

Office: Los Angeles

Date:

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. The file has 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.

*[Handwritten signature]*

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 dismissed.

The director concluded that the applicant failed to prove that he was physically present in the United States before January 1, 1982 and that he resided continuously in this country in an unlawful status from before January 1, 1982 through May 4, 1988.

On appeal, the applicant states that he tried his best to collect records to prove his residency from 1981 through 1985. The applicant explains that during that time he did not have a social security card so the only job he could get was janitorial and that he was paid on a cash basis. The applicant further states that in 1986, he bought his house in Anaheim, that he has been living there since and that during the loan process, his lender was able to verify his employment for "past five years."

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. See 8 C.F.R. § 245a.11(b).

"Continuous unlawful residence" is defined at 8 C.F.R. § 245a.15(c)(1), as follows: An alien shall be regarded as having resided continuously in the United States if no single absence from the United States has exceeded *forty-five (45) days*, and the aggregate of all absences has not exceeded one hundred and eighty (180) days between January 1, 1982, and May 4, 1988, unless the alien can establish that due to *emergent reasons*, his or her return to the United States could not be accomplished within the time period allowed.

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. See 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).

In an attempt to establish continuous unlawful residence since before January 1, 1982, as claimed, the applicant furnished the following evidence:

- An undated affidavit from [REDACTED] who attests that he personally knew and had been acquainted with the applicant in the United States from "04/81 to Present."
- An affidavit dated February 7, 1990 from [REDACTED] who attests that she personally knew the applicant for a period exceeding two years and that he had been a continuous resident of the United States from "April 1981 to Present."

- A letter dated January 16, 2001 from [REDACTED] an employee of the Bank of America in Rancho Codorva, California indicating that the applicant has held a checking account and been a customer of that bank since June 1981.

The record shows that that the applicant supported his claim for class membership in a legalization class-action lawsuit by submitting a Form for Determination of Class Membership in *CSS v. Meese* signed by him on February 2, 1990. On the determination form, he indicated that he first entered the United States on April 8, 1981 using a nonimmigrant visa. The record also contains a copy of a page of the applicant's passport showing that he was admitted to the United States as a B-2 nonimmigrant visitor for pleasure at Honolulu, Hawaii on April 8, 1981.

The applicant indicates that the only early record that he has is his savings account with the Bank of America that he opened in 1981. He indicates that since it has been more than 20 years, he did not keep his monthly statements. The applicant further indicates that the bank can only produce the records for the past seven years. The record establishes that the applicant opened a savings account at the Bank of America in June 1981. However, the opening and maintenance of that account does not mean that the applicant continuously resided in the United States during its pendency.

To support his claim, the applicant submitted an undated but signed Form I-687 Application for Status as a Temporary Resident under section 245A of the INA. On his Form I-687, the applicant indicated that he was employed by "Corporates Express" in Newport Beach as a messenger from May 1981 through June 1985 and that he was self-employed as a real estate appraiser from June 1985 to the "present." Although he only listed these two employers on his Form I-687, he indicates in a subsequent undated letter, "I tried to locate my former employer Zone Display Fixture to get some records of my employment but since the company has been sold to the new owner they have no access to the old records." Additionally, at his interview, the applicant claimed that he was employed by Zone Display Fixture as a janitor from 1981 through 1986 and that he was paid in cash. The fact that the applicant did not list Zone Display Fixture as a former employer on his Form I-687 casts doubt on the credibility of the employment information that he has furnished. The applicant compounds his discrepant employment information problem by stating (on appeal) that the only job that he could get from 1981 to 1985 was as a janitor for a company in Los Angeles even though he stated on his Form I-687 that he worked for another company as a messenger from May 1981 through June 1985.

The record contains additional discrepancies concerns the applicant's presence in the United States during the period from 1981 through 1988. His Form for Determination of Class Membership in *CSS v. Meese* indicates that he only made one trip outside the United States after January 1, 1982 when he departed this country in January 1985 and re-entered from The Philippines in February 1985. However, the record indicates that at the applicant's May 23, 2003 adjustment interview at the Los Angeles district office of Citizenship and Immigration Services (CIS), the applicant stated that he left this country from January 1985 to February 1985 for 30 days, in September 1985 for one month and in August 1986 for one month. A B-2 visitor's visa entry stamp in his passport confirms a September 1986 entry, but does not confirm the date of departure. Additionally, on his Form I-687, he listed his only absence during the period as being from "01-85 to 2-85."

Based upon the sparse documentation submitted by the applicant and its lack of its credibility and amenability to verification, it is determined that he has failed to establish that he resided in continuous unlawful status in the United States from prior to January 1, 1982 through May 4, 1988, as required under section 1104(c)(2)(B) of the LIFE Act. Therefore, he is ineligible for permanent resident status under section 1104 of the LIFE Act.

**ORDER:** The appeal is dismissed. This decision constitutes a final notice of ineligibility.