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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: [REDACTED] Office: Los Angeles

Date: JUL 06 2005

IN RE: Applicant: [REDACTED]

PETITION: 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.

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 district director denied the application because the applicant had not demonstrated that she 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 the former employer whom the Immigration and Naturalization Service, or the Service (now Citizenship and Immigration Services, or CIS) contacted to verify information relating to her claim of residence is an elderly woman with a limited ability to recall and recount precise dates and events and limited proficiency in English. The applicant contends that these factors contributed to any inconsistencies in her former employer's testimony regarding the applicant and her employment. The applicant submits a new affidavit from her former employer in support of the appeal.

The applicant appears to be represented; however, the record does not contain a properly executed Form G-28, Notice of Entry of Appearance as an Attorney or Representative, as required by 8 C.F.R. § 292.4(a). Although all representations will be considered, the notice of decision will be furnished only to the applicant.

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. 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).

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).

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 support of her claim of continuous residence in the United States since before January 1, 1982, the applicant submitted an affidavit attesting to her residence in this country for the requisite period, an employment letter, a letter of membership, twenty-three photocopied paycheck stubs, three receipts, a computer printout relating to the date that she obtained a California Driver's License, a letter from the State of California Franchise Tax Board, tax documents, a college/vocational school identification card, and a State of California Identification Card.

In the notice of intent to deny issued on May 12, 2004, the district director questioned the veracity of the applicant's claimed residence in the United States. Specifically, the district director stated that the applicant's former employer, [REDACTED] had been contacted by telephone on April 22, 2004, in order to verify information she had provided in an employment letter that had been submitted in support of the applicant's claim of residence. The district director concluded that information provided by [REDACTED] in this telephone interview conflicted with information regarding the specific dates of the applicant's employment and the duration of such employment as contained in her prior employment letter. The applicant was granted thirty days to respond to the notice and rebut the inconsistencies cited by the district director.

In response, the applicant submitted four new affidavits of residence and six original photographs to further support her claim residence in this country for the requisite period.

The district director determined that the applicant had failed to overcome the information contained in the notice of intent to deny, and denied the application on April 22, 2004.

On appeal, the applicant states that her former employer, [REDACTED] is an elderly woman with a limited ability to recall and recount precise dates and events and limited proficiency in English. The applicant declares that these factors contributed to any inconsistencies in her former employer's testimony regarding the applicant and her employment. The applicant includes a new affidavit from [REDACTED] in support of the appeal. The new affidavit of [REDACTED] appears to reconcile any purported conflict in previous testimony relating to the applicant's dates of employment. The explanations offered by the applicant and [REDACTED] considered to be reasonable in light of the circumstances and the significant passage of time. Consequently, the inconsistencies cited by the district director are minimal and cannot be considered as fatal to the applicant's claim of continuous residence in the United States from prior to January 1, 1982 to May 4, 1988.

In this instance, the applicant submitted evidence, including affidavits, employment letters, and contemporaneous documents, which tends to corroborate her claim of residence in the United States during the requisite period. The district director has not sufficiently 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. 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.