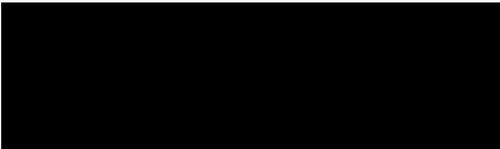


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U.S. Citizenship
and Immigration
Services

PUBLIC COPY



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FILE:



Office: Los Angeles

Date:

JUL 18 2005

IN RE:

Applicant:



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 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 evidence to support his claim of continuous residence in this country since prior to January 1, 1982. The applicant indicates that any purported discrepancy or confusion relating to his addresses of residence for the requisite period resulted from the fact that all of his residences were in Los Angeles County and in close proximity to the city of Los Angeles.

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).

The applicant is a class member in a legalization class-action lawsuit and as such, was permitted to previously file a Form I-687, Application for Temporary Resident Status Pursuant to Section 245A of the Immigration and Nationality Act (INA) on September 11, 1989. At part #33 of the application, where applicants were asked to list all residences in the United States since the date of first entry, the applicant indicated that he had lived in Commerce, California from December 1981 to July 1986 and Maywood, California from August 1986 to February 1989. In support of his claim of continuous residence in the United States since before January 1, 1982, the applicant submitted four affidavits attesting to his residence in this country for the requisite period, two employment letters, and an affidavit attesting to a trip he made in 1987. The record shows that the applicant subsequently submitted his Form I-485 LIFE Act application on May 24, 2002.

In the notice of intent to deny issued on May 14, 2004, the district director questioned the veracity of the applicant's claimed residence in the United States. Specifically, the district director stated that applicant listing of

his residences on the Form I-687 application conflicted with testimony relating to his addresses of residence in the requisite period as provided in his supporting documents. The applicant was granted thirty days to respond to the notice.

In response, the applicant submitted two new affidavits from individuals who had previously provided affidavits in support of the applicant's claim of residence in the period in question. The new affidavits of residence from these individuals appear to reconcile any purported conflict in these affiants previous testimony relating to the applicant's place of residence for the requisite period.

The district director determined that the applicant had failed to establish continuous residence in the United States in an unlawful status since before January 1, 1982 through May 4, 1988, and, therefore denied the Form I-485 LIFE Act application on June 16, 2004.

On appeal, the applicant asserts that any purported discrepancy or confusion relating to his addresses of residence for the requisite period resulted from the fact that all of his residences were in Los Angeles County and in close proximity to the city of Los Angeles. The explanation offered by the applicant is considered to be reasonable in light of the circumstances. 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 and employment letters, which tends to corroborate his 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 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.