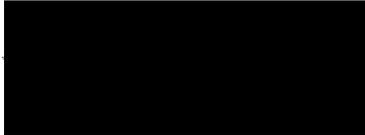


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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]

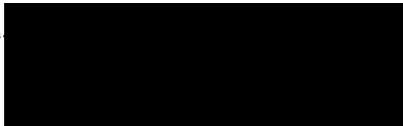
Office: LOS ANGELES

Date: MAY 23 2005

IN RE: Applicant: [REDACTED]

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:



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 she had continuously resided in the United States in an unlawful status from before January 1, 1982 through May 4, 1988.

On appeal, counsel asserts that the applicant has submitted sufficient documentation establishing continuous residence in the United States from prior to January 1, 1982 through May 4, 1988. Counsel provides additional evidence in effort to establish the applicant's residence in the United States. .

It is noted that the director, in denying the application, did not address the evidence furnished initially, and in response to the Notice of Intent to Deny, and did not set forth the specific reasons for the denial pursuant to 8 C.F.R. § 103.3. As such, the documentation 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:

- A California identification card (ID) issued on November 26, 1985.
- An ID card issued by the Roosevelt/Bilingual Community Adult School for 1984 through 1985.
- Envelopes postmarked February 13, 1985 and September 10, 1986 and addressed to the applicant's residence in Los Angeles, California.
- Several pay stubs from [REDACTED] in Los Angeles, California issued to the applicant during 1984 and 1985.

- Her child's November 2, 1985 birth certificate and September 19, 1987 baptism certificate.
- Several receipts issued during 1984, 1986, 1987 and 1988.
- Documentation from the Department of Social Services in Los Angeles, California dated November 20, 1985 and September 12, 1986.
- An employment letter from [REDACTED], supervisor of [REDACTED] Laundry who indicated that the applicant has been employed since August 1987.
- An employment affidavit from [REDACTED] who indicated that the applicant was in his employ as a babysitter from February 1983 through March 1984.
- An employment affidavit from [REDACTED] who indicated that the applicant was in her employ as a babysitter and housekeeper from December 1981 through February 1983.
- A 1984 wage and tax statement from [REDACTED] Fashion Corp. in Los Angeles, California.
- An appointment notice for February 22, 1984 issued by the Community Health Foundation in Los Angeles, California.
- Affidavits from [REDACTED] [REDACTED] who attested to the applicant's residences in Los Angeles, California since December 1981.

The statements of counsel on appeal regarding the amount and sufficiency of the applicant's evidence of residence have been considered. Furthermore, counsel's contention that the applicant's inability to produce additional evidence of residence for the period in question was the result of the passage of time is considered to be a reasonable explanation in these circumstances.

The employment letter from Mr. [REDACTED] failed to provide a telephone number or address and, therefore, is not amenable to verification by the Citizenship and Immigration Services.

Nevertheless, the applicant submitted other evidence, including contemporaneous documents, which tends to corroborate her 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.