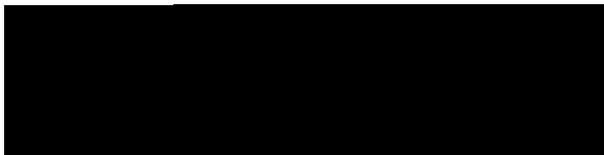


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Washington, DC 20529

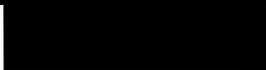


U.S. Citizenship  
and Immigration  
Services



L2

FILE:



Office: SEATTLE

Date:

OCT 12 2006

MSC 03 219 60408

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

HTP-2IC COF

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.

Maria Plunson

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the District Director, Seattle, Washington, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed with a separate finding of fraud and inadmissibility.

The district director concluded that the applicant had not established that he resided in the United States in a continuous unlawful status from before January 1, 1982 through May 4, 1988, as required by section 1104(c)(2)(B) of the LIFE Act, or that he was continuously physically present in the United States from November 6, 1986 through May 4, 1988, as required by section 1104(c)(2)(C) of the LIFE Act. The director noted that the applicant had not submitted evidence in response to the Notice of Intent to Deny the Application for Permanent Residence (NOID), and therefore, denied the application.

On appeal, the applicant states that he had requested an additional 60 days in which to respond to the NOID. The record does not reflect that the director received the applicant's request for an extension prior to issuing his decision. Even so, the applicant had ample opportunity to submit additional documents because the director did not deny the application until 90 days had passed. Further, the director reviewed the copy of the applicant's request for an extension that was submitted with the appeal, and noted that the applicant submitted no additional documentation in response to the NOID prior to submitting his appeal. All evidence submitted in response to a Service request must be submitted at one time. The submission of only some of the requested evidence will be considered a request for a decision based on the record. 8 C.F.R. § 103.2(b)(11). The applicant submits additional documentation on appeal, all of which has been considered in rendering this decision.

An applicant for permanent resident status under the provisions of the LIFE Act 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).

The "preponderance of the evidence" standard requires that the evidence demonstrate that the applicant's claim is "probably true," where the determination of "truth" is made based on the factual circumstances of each individual case. *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm. 1989). In evaluating the evidence, *Matter of E-M-* also stated that "[t]ruth is to be determined not by the quantity of evidence alone but by its quality." *Id.* Thus, in adjudicating the application pursuant to the preponderance of the evidence standard, the director must examine each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true.

Even if the director has some doubt as to the truth, if the petitioner submits relevant, probative, and credible evidence that leads the director to believe that the claim is "probably true" or "more likely than not," the applicant or petitioner has satisfied the standard of proof. *See U.S. v. Cardozo-Fonseca*, 480 U.S. 421 (1987) (defining "more likely than not" as a greater than 50 percent probability of something occurring). If the director can articulate a material doubt, it is appropriate for the director to either request additional evidence

or, if that doubt leads the director to believe that the claim is probably not true, deny the application or petition.

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 his NOID, the director noted that the applicant submitted affidavits in support of his April 5, 1990 class membership application that an investigation determined to be fraudulent. As a result of Operation Desert Deception, a large-scale fraud investigation, [REDACTED], who prepared and signed the applicant's Form I-687, Application for Status as a Temporary Resident, was convicted of conspiracy, false statements and fraudulent notary attestations. The investigation also resulted in the conviction of [REDACTED] who pleaded guilty to aiding and abetting, conspiracy, and legalization fraud. [REDACTED] was found to have provided fraudulent employment letters and notary stamps for use in legalization and special agricultural worker applications. The investigation revealed that the affidavits and notary stamps included as supporting documentation with the applicant's Form I-687 were those used by [REDACTED] and were determined to be fraudulent. As a result, on November 1, 1996, the applicant was served with a Notice of Intent to Revoke his class membership. The applicant was given 30 days in which to submit evidence to rebut the revocation. The applicant did not respond to this notice, and later submitted copies of the discredited affidavits in support of this LIFE application. The director informed the applicant that these affidavits lacked credibility.

The director also noted that the applicant was given a Form I-72, Request for Evidence, during his December 4, 2003 LIFE adjustment interview. The Form I-72 instructed the applicant to submit evidence of his continuous presence and unlawful residence in the United States prior to January 1, 1982 until May 4, 1988. In response, the applicant submitted a single, unsworn statement from [REDACTED] who stated that she employed the applicant as a handyman from 1981 to 1984. The director noted that [REDACTED] accompanied the applicant to his LIFE Act interviews as his interpreter.

The evidence submitted to establish the applicant's continuous presence and residence in the United States consists of the discredited affidavits, the unsworn statement of [REDACTED] and a copy of the applicant's passport reflecting an issue date in Taipei of June 16, 1987, with an entry stamp indicating that he was issued a B-2 visa by the United States Embassy in Hong Kong on July 15, 1987 and admitted into the United States on September 18, 1987. This entry date was also stamped on a copy of Form I-94, Departure Record. The director noted that the issue date of the applicant's passport is June 16, 1987; however, on his Form I-687 application, he claimed to have left the United States in August of 1987. The applicant did not address this issue on appeal. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the applicant submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

On appeal, the applicant submits a copy of his California driver's license, which was allegedly issued to him in January 1985. However, the license reflects an expiration date of 1952 and shows the applicant living at [REDACTED]. The applicant was not born until 1957, does not claim to have

entered the United States prior to 1981, and stated on his Form I-687 that he lived at [REDACTED] from August 1981 until March 1983.

The applicant also submits copies of utility receipts from Southern California Gas Company for the period September 23 to October 25, 1983; May 24 to June 25, 1984; January 28 to February 27, 1985; June 26 to July 28, 1986; and March 31 to April 29, 1987. The 1983, 1984 and 1985 receipts, which are for [REDACTED] where the applicant stated that he lived from April 1983 to October 1986, contain irregularities showing that they are fraudulent. For example, while the meter reading number should have risen over time, the previous and present meter reading figures decrease from year to year, with the bills reflecting a previous reading of 7895 in October of 1983, a previous reading of [REDACTED] in June 1984 and a previous reading of [REDACTED] in February 1985.

Further, the amounts due on the June 1984 and February 1985 bills are not totaled correctly. For example, the June 1984 charges are:

|                  |                    |        |
|------------------|--------------------|--------|
| Customer charge: |                    | \$3.26 |
| Lifeline Therms: | 6 @ \$.46484       | 2.79   |
| State Reg. Fee:  | 19 Therms @ .00034 | .01    |
| Los Angeles Tax: | Tax 10%            | 1.54   |

The total amount due is listed as \$16.94; however, the correct total is \$7.60.

Finally, the customer account number differs from that shown on the 1986 and 1987 receipts, even though the 1986 receipt is for the same address.

The applicant also submits copies of utility receipts from the Department of Water and Power for the City of Los Angeles and from Southern California Edison Company that also purport to be for service at the same address. Furthermore, even though the applicant claimed to have changed addresses from Pomona to West Covina in 1987, and from West Covina to Alhambra in 1988, the Southern California Edison Company bills reflect the same meter number for each of the different addresses. While it may be customary for the account number for a particular customer to remain the same across several addresses,<sup>1</sup> a meter is labeled and listed separately on a billing statement, and it remains with the residence to which it is attached and assigned.<sup>2</sup>

Thus, the applicant has submitted utility bills reflecting that he was charged by three different companies for services at the same address during the same time frame, and indicated that all of his service with Southern California Edison Company was billed from the same meter number, regardless of the residence or city in which he lived.

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<sup>1</sup> See <http://www.sce.com/CustomerService/QuickAnswers/Service/default.htm>, question 14, accessed on October 12, 2006.

<sup>2</sup> See <http://www.sce.com/CustomerService/UnderstandingYourBill/ReadingYourMeter/>, discussing how to determine which of several meters at a residence is the one listed on a billing statement, accessed on October 12, 2006.

On June 7, 2006, in accordance with the regulation at 8 C.F.R. § 103.2(b)(16)(i), this office issued a notice advising the applicant of derogatory information. Specifically, the AAO notified the applicant that he had submitted fraudulent utility receipts and a fraudulent driver's license in support of his application.

The AAO's June 1, 2006 notice stated:

The receipts that you submitted for electrical service at various residences appear to be fraudulent. The receipts reflect services at three different residences in three different cities under the same meter number. The district office confirmed with the power company that, while customer service numbers may remain the same, meter numbers are unique to the specific location.

Additionally, a copy of a California driver's license supposedly issued to you in January 1985 shows an expiration date of 1952. The evidence suggests that these receipts and copy of the driver's license have been manufactured for the purpose of this visa application. By submitting false documents, you have committed visa fraud.

Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). The above derogatory information indicates that you have manufactured documentation in support of your visa petition. For this reason, we cannot accord any of your other claims any weight.

If you choose to contest the AAO's findings, you must offer substantial evidence from credible sources addressing, explaining, and rebutting the discrepancies described above. The regulation at 8 C.F.R. § 103.2(b)(16)(i) does not specify the amount of time afforded to an applicant or petitioner to respond to derogatory evidence. We consider thirty (30) days to be ample time for this purpose. Therefore, you are hereby afforded 30 days from the date of this letter in which to respond to this notice. If you do not submit such evidence within the allotted thirty-day period, the AAO will dismiss your appeal. If you choose to respond, please submit your response to the address shown on the first page of this letter. Also, please reference your file number, [REDACTED] in your response.

Because so much of the derogatory information concerns falsified documents, we will obviously not accept any photocopied documentation as evidence to overcome the above derogatory information. Pursuant to 8 C.F.R. § 103.2(b)(5), we have the discretion to request the originals of any photocopies submitted. We reiterate that, pursuant to *Matter of Ho, supra*, you cannot overcome the above findings simply by offering a verbal explanation.

In response, the applicant submitted only a Form AR-11, Alien's Change of Address Card. Accordingly, this application cannot be approved.

Section 212(a)(6)(C) of the Act provides:

Misrepresentation. – (i) In general. – Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act is inadmissible.

Under BIA precedent, a material misrepresentation is one which "tends to shut off a line of inquiry which is relevant to the alien's eligibility and which might well have resulted in a proper determination that he be excluded." *Matter of S- and B-C-*, 9 I&N Dec. 436, 447 (BIA 1961).

The applicant signed the Form I-485, thereby certifying under penalty of perjury that "this application and the evidence submitted with it are all true and correct."

By filing the instant application and submitting a fraudulent driver's license and fraudulent utility receipts, the applicant has sought to procure a benefit provided under the Act using fraudulent documents and through misrepresentation of material facts. Because the applicant has failed to provide independent and objective evidence to overcome, fully and persuasively, our finding that the receipts and the driver's license were falsifications, we affirm our finding of fraud. In addition, an applicant for permanent resident status under the provisions of the LIFE Act must establish that he or she is admissible as an immigrant. Section 1104(c)(2)(D)(i) of the LIFE Act. Because of his attempt to procure a benefit under the Act through fraud and material misrepresentation, we find that the applicant is inadmissible under section 212(a)(6)(C) of the Act.

A few errors or minor discrepancies are not reason to question the credibility of an alien or an employer seeking immigration benefits. *See, e.g., Spencer Enterprises Inc. v. U.S.*, 345 F.3d 683, 694 (9th Cir., 2003). However, anytime an application includes numerous errors and discrepancies, and the applicant fails to resolve those errors and discrepancies after CIS provides an opportunity to do so, those inconsistencies will raise serious concerns about the veracity of the petitioner's assertions. In this case, the discrepancies and errors catalogued above lead the AAO to conclude that the evidence of the applicant's eligibility is not credible. Accordingly, the petitioner has not established the applicant's eligibility for the requested immigrant visa classification.

Regarding the instant application, the applicant's failure to submit independent and objective evidence to overcome the preceding derogatory information seriously compromises the credibility of the applicant and the remaining documentation. As stated above, doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. *See Matter of Ho*, 19 I&N Dec. at 591-92.

The applicant has, therefore, failed to establish that he resided in continuous unlawful status in the United States from before January 1, 1982 through May 4, 1988, as required under section 1104(c)(2)(B) of the LIFE Act, or that he was continuously physically present in the United States from November 6, 1986 through May 4, 1988, as required by section 1104(c)(2)(C) of the LIFE Act. In addition, because he has attempted to procure a benefit under the Act through fraud and material misrepresentation, he is inadmissible under section

212(a)(6)(C) of the Act. Given this, he is ineligible for permanent resident status under section 1104 of the LIFE Act.

An application or petition that fails to comply with the technical requirements of the law may be denied by the AAO even if the Service Center does not identify all of the grounds for denial in the initial decision. *See Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd*. 345 F.3d 683 (9th Cir. 2003); *see also Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989)(noting that the AAO reviews appeals on a *de novo* basis).

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

**FURTHER ORDER:** The AAO finds that the applicant knowingly submitted fraudulent documents in an effort to mislead Citizenship and Immigration Services and the AAO on elements material to his eligibility for a benefit sought under the immigration laws of the United States. Accordingly, he is inadmissible under section 212(a)(6)(C) of the Act.