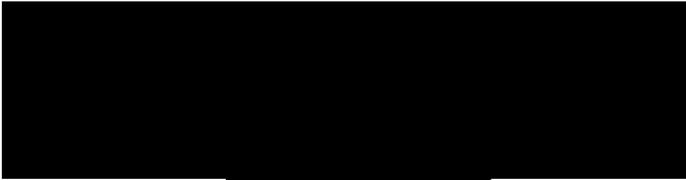


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U.S. Citizenship
and Immigration
Services

L2



FILE: [Redacted] Office: Los Angeles
MSC 02 109 61750

Date: AUG 13 2007

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:

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 your case 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, 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, Los Angeles, California, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The district director denied the application because the applicant had failed to establish residence in the United States in an unlawful status from January 1, 1982 through May 4, 1988.

On appeal, the applicant reiterates her claim of continuous residence in the United States from prior to January 1, 1982 through May 4, 1988. The applicant includes copies of previously submitted documentation in support of the 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. Section 1104(c)(2)(B) of the LIFE Act and 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 under the provisions of section 212(a) of the Immigration and Nationality Act (Act), 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).

Although the regulation at 8 C.F.R. § 245a.2(d)(3) provides an illustrative list of contemporaneous documents that an applicant may submit in support of his or her claim of continuous residence in the United States in an unlawful status since prior to January 1, 1982 to May 4, 1988, the submission of any other relevant document including affidavits is permitted pursuant to 8 C.F.R. § 245a.2(d)(3)(vi)(L).

8 C.F.R. § 245a.2(d)(3)(i) states that letters from employers attesting to an applicant's employment must: provide the applicant's address at the time of employment; identify the exact period of employment; show periods of layoff; state the applicant's duties; declare whether the information was taken from company records; and, identify the location of such company records and state whether such records are accessible or in the alternative state the reason why such records are unavailable.

8 C.F.R. § 245a.2(d)(3)(v) states that attestations by churches, unions, or other organizations to the applicant's residence by letter must: identify applicant by name; be signed by an official (whose title is shown); show inclusive dates of membership; state the address where applicant resided during membership period; include the seal of the organization impressed on the letter or the letterhead of the organization, if the organization has letterhead stationery; establish how the author knows the applicant; and, establish the origin of the information being attested to.

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.

At issue in this proceeding is whether the applicant has submitted sufficient credible evidence to 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. Here, the submitted evidence is not relevant, probative, and credible.

The applicant made a claim to class membership in a legalization class-action lawsuit and as such, was permitted to file a Form I-687, Application for Temporary Resident Status Pursuant to Section 245A of the Immigration and Nationality Act (Act), on May 14, 1990. At part #33 of the Form I-687 application where applicants were asked to list all residences in the United States since the date of their first entry, the applicant listed [REDACTED] in Los Angeles, California from September 1981 to March 1985, [REDACTED] in Burbank, California from April 1985 to January 1987, and [REDACTED] in Fairfield, California from February 1987 to August 1988. At part #34 of the Form I-687 application where applicants were asked to list all affiliations or associations with clubs, organizations, churches, unions, businesses, etc., the applicant listed “none.” At part #36 of the Form I-687 application where applicants were asked to list employment in the United States since first entry, the applicant listed babysitting and housekeeping for [REDACTED] at [REDACTED] in Los Angeles, California from September 1981 to March 1985, housekeeping for [REDACTED] at [REDACTED] in Burbank, California from April 1985 to January 1987, and babysitting and housekeeping for [REDACTED] at [REDACTED] in Fairfield, California from February 1987 to August 1988.

In support of her claim of continuous residence in the United States from prior to January 1, 1982, the applicant submitted a photocopy of a Form I-94, Arrival/Departure Record. The Form I-94 reflects that the applicant entered this country this country as a B-2 visitor at New York, New York on February 2, 1987 with a period of authorized stay until August 1, 1987, and that her period of authorized stay was subsequently extended to February 1, 1988.

The applicant provided a letter signed by [REDACTED] that contained the letterhead of Emergicenter Family Care in Costa Mesa, California and is dated July 10, 1990. [REDACTED] indicated that the applicant had been a patient of that office since November 15, 1981 and that her last visit had occurred on October 6, 1988. However, this letter must be considered to be of limited probative value without corroborative medical records.

The applicant included seven photocopied receipts from retail establishments that bear dates ranging from October 13, 1981 to April 17, 1988. However, these receipts are of minimal probative value as none of the seven receipts bear any information either relating to or identifying the applicant.

The applicant submitted a photocopied envelope postmarked August 26, 1985 that was addressed to the applicant in care of [REDACTED] at [REDACTED] in Rowland Heights, California. The applicant also provided a photocopied envelope postmarked July 5 of an indeterminate year that was mailed from the Philippines to the applicant and [REDACTED] at [REDACTED] in Rowland Heights, California. The applicant indicated that this envelope had been mailed to her in 1986 by including the handwritten notation [REDACTED] on the envelope. As noted previously, the applicant listed her address of residence as [REDACTED] St.," in Burbank, California in that period from April 1985 to January 1987 at part #33 of the Form I-687 application. The applicant failed to provide any explanation as to why these envelopes were mailed to her at the [REDACTED] address rather than that address she claimed as her address of residence when these envelopes were mailed to her on August 26, 1985 and July 5, 1986, respectively.

The applicant included a photocopy of her State of California Department of Motor Vehicles Identification Card. This document was issued to the applicant on December 22, 1987 and listed her address as [REDACTED] in Rowland Heights, California. However, the applicant listed her address of residence as [REDACTED] in Fairfield, California from February 1987 to August 1988 at part #33 of the Form I-687 application. The applicant failed to put forth any explanation as to why the identification card listed the [REDACTED] address instead of the address she claimed as her address of residence as of December 22, 1987.

The applicant submitted an affidavit that is signed by [REDACTED]. [REDACTED] stated that she first met the applicant at a reunion in January 1982 and had personal knowledge that the applicant resided in the United States since such date because she and the applicant remained in contact. While [REDACTED] claimed that she had known the applicant since January 1982, she failed to provide any specific and verifiable testimony that would corroborate the applicant's claim of residence in this country during the period in question. In addition, [REDACTED] failed to attest to applicant's residence in the United States prior to January of 1982.

The applicant provided a declaration of employment signed by [REDACTED] who noted that she employed the applicant as a babysitter and housekeeper at [REDACTED], in Fairfield,

California from February 1987 to August 1988. However, [REDACTED] failed to testify that the applicant also resided at this address during her period of employment despite the fact the applicant listed her address of residence as [REDACTED] in Fairfield, California from February 1987 to August 1988 at part #33 of the Form I-687 application. Additionally, [REDACTED] failed to attest to the applicant's residence in the United States from prior to January 1, 1982 up to February 1987.

The applicant included a declaration of employment that is signed by [REDACTED]. [REDACTED] declared that she had employed the applicant as a housekeeper at [REDACTED], in Burbank, California from April 1985 to January 1987. Although the applicant listed her address of residence as [REDACTED] in Burbank, California from April 1985 to January 1987 at part #33 of the Form I-687 application, [REDACTED] failed to note that the applicant also resided at this address during that same period in her declaration. In addition, [REDACTED] failed to provide any testimony regarding the applicant's residence in this country either prior to April 1985 or after January 1987.

The applicant submitted a declaration of employment signed by [REDACTED] who indicated that she employed the applicant as a housekeeper and babysitter at [REDACTED] in Los Angeles, California from September 1981 to March 1985. Nevertheless, [REDACTED] failed to mention that the applicant also resided at this address during her period of employment despite the fact the applicant listed her address of residence as [REDACTED] in Los Angeles, California from September 1981 to March 1985 at part #33 of the Form I-687 application. Further, [REDACTED] provided no testimony relating to the applicant's residence in the United States after March of 1985.

The applicant provided an affidavit that is signed by [REDACTED]. [REDACTED] attested to the applicant's continuous residence in this country since December 1981 and stated, "I met him at a Christmas party back in 1981."

The applicant included an affidavit signed by [REDACTED] who noted that the applicant had continuously resided in the United States since September 1981. [REDACTED] declared, "I met him at a picnic party in September-81 and since then we have been aware of his stay."

The applicant submitted an affidavit that is signed by [REDACTED]. [REDACTED] indicated that the applicant had continuously resided in this country since November 1984 and stated, "I met him in the swap meet back in 11/84 and since then we became friends."

The three affidavits signed by [REDACTED], [REDACTED] and [REDACTED] III, respectively, lack credibility as all three affiants misidentified the applicant's gender by identifying her as a man rather than a women. Additionally, none of these affiants provided any specific and verifiable testimony that would corroborate the applicant's claim of residence in this United States during the period in question.

Subsequently, on January 17, 2002, the applicant filed her Form I-485 LIFE Act application. The applicant included copies of previously submitted documentation and new evidence in support of her claim of continuous residence in this country since prior to January 1, 1982.

The applicant provided the original envelope postmarked August 26, 1985 that was addressed to her in care of [REDACTED] at [REDACTED] in Rowland Heights, California. The applicant also submitted the original envelope postmarked July 5 of an indeterminate year that was mailed from the Philippines to the applicant and [REDACTED] at [REDACTED] in Rowland Heights, California. The applicant indicated that this envelope had been mailed to her in 1986 by including the handwritten notation [REDACTED] on the envelope. The applicant included photocopies of these two envelopes with her original Form I-687 application.

The applicant provided an original envelope that appears to be postmarked February 2, 1983, was mailed from the Philippines, and was addressed to the applicant in care of [REDACTED] at [REDACTED] in Rowland Heights, California. However, the applicant listed her address of residence as [REDACTED] in Los Angeles, California in that period from September 1981 to March 1985 at part #33 of the Form I-687 application. The applicant failed to provide any explanation as to why this envelope was mailed to her at the [REDACTED] address rather than that address she claimed as her address of residence as February 2, 1983.

The applicant submitted a letter dated March 10, 1983 that contained the letterhead of the First United Methodist Church in La Puente, California and is signed by [REDACTED] who listed his position as pastor. In his letter, [REDACTED] stated that the applicant lived at [REDACTED] in Rowland Heights, California and she had been a registered member who attended church services since March of 1983. However, [REDACTED] statement that the applicant lived at the [REDACTED] address in Rowland Heights, California as of March 10, 1983 conflicted with the applicant's testimony that her address of residence was [REDACTED] in Los Angeles, California in that period from September 1981 to March 1985 at part #33 of the Form I-687 application. Further, the applicant failed to list any association or affiliation with the First United Methodist Church at part #34 of the Form I-687 application where applicants were asked to list all affiliations or associations with clubs, organizations, churches, unions, businesses, etc., but instead listed "none." The applicant failed to provide any explanation as to why she did not list her affiliation with this religious organization at part #34 of the Form I-687 application.

The record shows that the applicant appeared for an interview relating to her LIFE Act application at CIS's Los Angeles, California District Office on March 13, 2003. At the conclusion of this interview, the applicant was issued a Form I-72, Request for Additional Information, in which she was asked to provide additional evidence to support her claim of continuous residence in the United States from prior to January 1, 1982. The applicant was granted ninety days to respond to this request.

In response to the Form I-72, the applicant submitted two original envelopes that are postmarked April 25, 1982 and the third day of an indeterminate month in 1984, respectively. The envelope postmarked April 25, 1982 was mailed from the Philippines, was addressed to [REDACTED] at [REDACTED] in Rowland Heights, California, and contained a letter dated April 1982 written to the applicant by her son [REDACTED]. The envelope postmarked on the third day of an indeterminate month in 1984 was mailed from the Philippines, was addressed to [REDACTED] at [REDACTED] in Rowland Heights, California, and contained a letter dated March 1984 written to the applicant by her son [REDACTED]. As has been noted, the applicant listed her address of residence as [REDACTED] in Los Angeles, California in that period from September 1981 to March 1985 at part #33 of the Form I-687 application. The applicant failed to provide any explanation as to why these envelopes were mailed to her at the [REDACTED] address rather than that address she claimed as her address of residence as of April 25, 1982 and 1984.

The applicant provided a photograph of herself, her brother-in-law, and two sisters-in-law that contains the handwritten notation "May 6/85." The applicant also included another photograph of herself with family members that contains the handwritten notation "May 16/87." However, the probative value of these photographs is limited by the fact that the locations depicted in these photographs and the actual dates such pictures were taken cannot be discerned with certainty.

The applicant submitted three separate Christmas cards the first of which contains the handwritten notation "Dec./82," the second of which contains the handwritten notation "Dec./83," and the third of which contains the handwritten notation "Dec./84." However, the three Christmas cards are of minimal probative value as none bear any information either relating to or identifying the applicant.

The applicant provided the following:

- a church bulletin dated February 8, 1981 from the First United Methodist Church in La Puente, California;
- a program dated November 21, 1982 from the Asbury United Methodist Church for its centennial soiree;
- six postcards depicting various landmarks in and around the Epworth by the Sea Methodist Center at St. Simons Island, Georgia; and,
- a pamphlet from the Epworth by the Sea Methodist Center at St. Simons Island, Georgia.

However, the church bulletin, program, postcards, and pamphlet have no probative value because the documents do not contain any information either relating to or identifying the applicant.

On November 17, 2004, the district director issued a notice of intent to deny to the applicant informing her of CIS's intent to deny her application because she failed to submit sufficient evidence of continuous unlawful residence in the United States from prior to January 1, 1982 through May 4, 1988. The applicant was granted thirty days to respond to the notice. The record shows that the applicant failed to respond to the notice.

The district director determined that the applicant failed to submit sufficient credible evidence demonstrating her residence in the United States in an unlawful status from January 1, 1982 through May 4, 1988, and, therefore, denied the Form I-485 LIFE Act application on December 27, 2004.

On appeal, the applicant reiterated her claim of continuous residence in the United States from prior to January 1, 1982 through May 4, 1988 and included copies of previously submitted documents. The applicant's statements on appeal regarding the sufficiency of the evidence submitted in support her claim of continuous residence in this country for the requisite period have been considered. However, the evidence submitted by the applicant relating to her residence in the United States from prior to January 1, 1982 lacks sufficient detail, contains little verifiable information, and in some cases conflicts with the substance of the applicant's own testimony regarding her residence in this country for the requisite period.

As previously discussed, the applicant submitted postmarked envelopes as well as letters as evidence of her residence within the United States prior to January 1, 1982. With the Form I-485 LIFE Act application that was filed on January 17, 2002, the applicant included an original envelope postmarked July 5 of an indeterminate year that she claimed was mailed to her at an address in Rowland Heights, California from the Philippines in 1986. A review of the *2007 Scott Standard Postage Stamp Catalogue Volume 5* (Scott Publishing Company 2006), reveals the following regarding the Philippine postage stamps affixed to the postmarked envelope:

- This envelope bears a postage stamp with a value of 4.75 Philippine pesos that contains a stylized illustration of a helmeted worker turning a gearwheel. This stamp is listed at page 249 of Volume 5 of the *2007 Scott Standard Postage Stamp Catalogue* as catalogue number [REDACTED]. The catalogue lists this stamp's date of issue as August 11, 1987. The envelope also bears a postage stamp with a value of seventy-five Philippine sentimos that contains a picture of a postage stamp issued when the Philippines were a possession of the United States and commemorates the "A [REDACTED] International Stamp Show that took place in Chicago, Illinois from May 22, 1986 to June 1, 1986. This stamp is listed at page 249 of Volume 5 of the *2007 Scott Standard Postage Stamp Catalogue* as catalogue number [REDACTED]. The catalogue lists this stamp's date of issue as January 16, 1987.

In response to a subsequent Form I-72, Request for Additional Evidence, the applicant submitted a variety of documents including envelopes that are postmarked April 25, 1982 and the third day

of an indeterminate month in 1984, respectively. The envelope postmarked April 25, 1982 was mailed from the Philippines, is addressed to a [REDACTED] in Rowland Heights, California, and contains a letter dated April 1982 written to the applicant by her son Roy. A review of the *2007 Scott Standard Postage Stamp Catalogue* Volume 5 (Scott Publishing Company 2006) reveals the following regarding the Philippine postage stamp affixed to this envelope:

- The envelope postmarked April 25, 1982 bears a Philippine postage stamp with a value of 5.50 Philippine pesos that commemorates the [REDACTED] jet plane. The stamp bears a picture of a [REDACTED] and the notations Philippine Airlines and 1980. This stamp is listed at page 249 of Volume 5 of the *2007 Scott Standard Postage Stamp Catalogue* as catalogue number [REDACTED]. The catalogue lists this stamp's date of issue as January 16, 1987.

The envelope postmarked on the third day of an indeterminate month in 1984 was mailed from the Philippines, is addressed to [REDACTED] in Rowland Heights, California, and contains a letter dated March 1984 written to the applicant by her son [REDACTED]. A review of the *2007 Scott Standard Postage Stamp Catalogue* Volume 5 (Scott Publishing Company 2006) reveals the following regarding the Philippine postage stamp affixed to this envelope:

- The envelope postmarked on the third day of an indeterminate month in 1984 bears a Philippine postage stamp with a value of 3.60 Philippine pesos that commemorates the former first lady of the Philippines, [REDACTED]. The stamp bears a picture of [REDACTED] with her full name printed underneath, a large "P" representative of Philippine peso, a line under the ".60" portion of the number "3.60," and a thick frame line on the border of the stamp. This stamp is listed at page 246 of Volume 5 of the *2007 Scott Standard Postage Stamp Catalogue* as catalogue number [REDACTED], type I. The catalogue lists this stamp's date of issue as February 14, 1986.

The fact that envelopes and letters mailed to the applicant on various dates in 1982, 1984, and 1986 respectively, all bear Philippine postage stamps that were not issued until well after the date these envelopes were purportedly mailed establishes that she utilized documents in a fraudulent manner and made material misrepresentations in an attempt to establish her residence within the United States for the requisite period.

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.

By engaging in such action, the applicant has negated her own credibility as well as the credibility of her claim of continuous residence in this country for the period from prior to January 1, 1982. In addition, the applicant rendered herself inadmissible to the United States under any visa classification, immigrant or nonimmigrant pursuant to section 212(a)(6)(C) of the Act by committing acts constituting fraud and willful misrepresentation.

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. 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 (BIA 1988).

The AAO issued a notice to the applicant on June 7, 2007 informing her that it was the AAO's intent to dismiss her appeal based upon the fact that she utilized the postmarked envelopes cited above in a fraudulent manner and made material misrepresentations in an attempt to establish her residence within the United States for the requisite period. The AAO further informed the applicant that she was inadmissible to the United States under section 212(a)(6)(C) of the Act as a result of her actions. The applicant was granted fifteen days to provide substantial evidence to overcome, fully and persuasively, these findings. However, as of the date of this decision the applicant has failed to submit a statement, brief, or evidence addressing the adverse information relating to her claim of residence in the United States since prior to January 1, 1982. 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 absence of sufficiently detailed supporting documentation and the existence of derogatory information that establishes the applicant used postmarked envelopes in a fraudulent manner and made material misrepresentations all seriously undermine the credibility of the applicant's claim of residence in this country for the requisite period, as well as the credibility of the documents submitted in support of such claim. Pursuant to 8 C.F.R. § 245a.2(d)(5), the inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. The applicant has failed to submit sufficient credible documentation to meet her burden of proof in establishing that she has resided in the United States since prior to January 1, 1982 by a preponderance of the evidence as required under both 8 C.F.R. § 245a.2(d)(5) and *Matter of E-M*, 20 I&N Dec. 77 (Comm. 1989).

Given the applicant's reliance upon documents with minimal or no probative value, it is concluded that he has failed to establish continuous residence in an 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. The applicant is, therefore, ineligible for permanent resident status under section 1104 of the LIFE Act on this basis.

In addition, the fact that the applicant utilized documents in a fraudulent manner and made material misrepresentations in an attempt to establish her residence within the United States for the requisite period rendered her inadmissible to this country pursuant to section 212(a)(6)(C) of the Act. By filing the instant application and submitting falsified documents, the applicant has sought to procure a benefit provided under the Act through fraud and willful misrepresentation of a material fact. Because the applicant has failed to provide independent and objective evidence to overcome, fully and persuasively, our finding that she submitted falsified documents, we affirm our finding of fraud. The applicant failed to establish that she is admissible to the United States as required by 8 C.F.R. § 245a.12(e). Consequently, the applicant is ineligible to adjust to permanent residence under section 1104 of the LIFE Act on this basis as well.

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