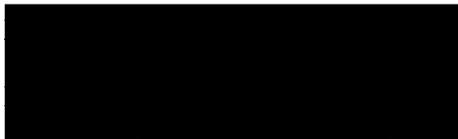


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**U.S. Citizenship  
and Immigration  
Services**

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FILE:



MSC 01 282 60289

Office: LOS ANGELES

Date: SEP 05 2007

IN RE:

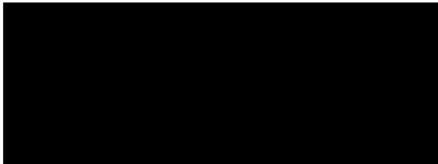
Applicant:



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:



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, 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 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 argues that the application was wrongfully denied "since the officer handling this case villainously lied." Counsel asserts his rebuttal letter was received three days after the issuance of the incorrect decision.

The record reflects the director issued a Notice of Intent to Deny on October 1, 2004, and gave the applicant 30 days in which to explain the discrepancies or rebut the adverse evidence as required in 8 C.F.R. § 245a.20(a)(2). However, the director issued her decision 25 days later on October 26, 2004. As such, the documentation submitted in response to the Notice of Intent to Deny 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).

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 applicant 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 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.

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 her Notice of Intent to Deny, the director advised the applicant that the documents submitted by her had failed to establish her continuous unlawful residence since before January 1, 1982 to August 1983. The applicant was advised the affidavit from [REDACTED] lacked pertinent information and, therefore, had no evidentiary weight. The applicant was also advised that her letter dated December 15, 1981 appeared to have been altered as the date appeared to have been added at a later time and the year had been altered to indicate 1981. The address on the envelopes for the letters dated December 15, 1981 and July 27, 1983 contradicted her Form I-687 application as she did not claim residence at this address until 1986. The director determined that the letters and envelopes were deemed not to be credible.

In response, counsel asserted because the applicant had submitted the original envelopes, he was "unable to verify through experts, the authenticity of them." Counsel asserted that the applicant has two children born in the United States in 1984 and 1987 and she had met her burden of proof.

Counsel submitted a declaration from the applicant who indicated she entered the United States on November 15, 1981 and resided with Marina, an acquaintance, at [REDACTED] until September 1983. From 1983 to 1986 the applicant indicated that she resided at two other residences within the Los Angeles area. In October 1986, the applicant indicated she resided with her sister, [REDACTED] until October 2003. Regarding the altered letters, the applicant claimed "they refuse to show me the evidence of the alleged alteration."

As the record contains no evidence of a request to view the adverse evidence, the applicant's claim has no merit. The applicant has not provided any credible evidence such as an affidavit from "Marina" in an effort to corroborate her claimed residence from 1981 to September 1983. If in fact the applicant was residing at [REDACTED] it not clear why she listed a different address on her California identification card issued on August 30, 1983.

Counsel submitted an affidavit from [REDACTED] of Paramount, California who attested to the applicant's residence in Whittier, California since December 1981. The affiant asserted that she met the applicant at a Christmas party at her home in December 1981, she is the Godparent of the applicant's child and has maintained a close friendship with applicant since that time. Counsel also submitted an affidavit from [REDACTED] of Compton, California, who attested to the applicant's residence in Compton, California since August 1983. The affiant asserted she met the applicant in August 1983 through a friend and have maintained a good friendship with the applicant since that time.

The affidavits from [REDACTED] raise questions to their credibility as they contradict each other as well as the applicant's Form I-687 application. Specifically, the applicant, on her Form I-687 application, claimed no residence in either Whittier or Compton during the requisite period.

Doubt cast on any aspect of an applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence. It is incumbent upon an 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).

In this instance, the applicant submitted evidence which tends to corroborate her claim of residence in the United States from August 30, 1983 through May 4, 1988. However, given the credibility issues arising from the documentation provided by the applicant in an effort to establish her residence since before January 1, 1982 to August 29, 1983, it is determined that the applicant has not met her burden of proof. The applicant has not established, by a preponderance of the evidence, that she entered the United States

before January 1, 1982 and resided in this country in an unlawful status continuously from before January 1, 1982 through May 4, 1988, as required under 1104(c)(2)(B)(i) of the LIFE Act and 8 C.F.R. § 245a.11(b).

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).

Upon further review of the envelopes submitted by the applicant, the AAO determined that the applicant utilized these documents in a fraudulent manner in an attempt to support her claim of residence since before January 1, 1982 through August 29, 1983.

On June 28, 2007, the AAO sent a notice to the applicant, which again advised the applicant of the letters dated December 15, 1981, and July 27, 1983, as well as the accompanying postmarked envelopes. The applicant was advised that the stamp affixed to the envelope postmarked on or after December 15, 1981, was listed at page 876 of Volume 2 of the 2006 Scott Standard Postage Stamp Catalogue as catalogue number [REDACTED]. The catalogue listed this stamp's date of issue as November 28, 1990. The stamps affixed to envelope postmarked July 29, 1983, were listed at page 877 of Volume 2 of the 2006 Scott Standard Postage Stamp Catalogue as catalogue number [REDACTED]. The catalogue listed these stamps' dates of issue as April 6, 1992 and April 30, 1992. The applicant was advised that pursuant to *Matter of Ho, supra*, she could not overcome the above findings simply by offering a verbal explanation.

The applicant, in response, submits an explanation, but offered no substantial new evidence from credible sources addressing, explaining, and rebutting the discrepancies. The applicant, asserts, in part:

I was seeking these proofs in a suitcase; I was looking for letters that my father wrote to me from El Salvador. I pulled the letters from the envelopes to read them and when I placed the letters back into the envelopes I did not realize which the correct envelope from which I pulled a particular letter, in other words, I confused myself with the envelopes. I can testify that I never touched the stamps or tried to do any type of fraud, my intentions to try to obtain my legal residency are honest. My father was an old man and I do not know from where he obtained the stamps. I do not have any control on what he did, because I have been living 25 years in the United States and I always I have obeyed the rules.

By filing the instant application and submitting the fraudulent envelopes, the applicant has sought to procure a benefit provided under the LIFE 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, the finding that these envelopes were falsifications, the AAO makes a finding of fraud. 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. As the applicant attempted to procure a benefit under the LIFE Act through fraud and material misrepresentation, the AAO finds that the applicant is inadmissible under section 212(a)(6)(C) of the Act.

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