

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

L2

FILE:

MSC 02 017 62583

Office: GARDEN CITY

Date: OCT 15 2008

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. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits Center. 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. If your appeal was sustained or remanded for further action, you will be contacted.

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 Director, Garden City, New York, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director determined that the applicant had not demonstrated that he had continuously resided in the United States in an unlawful status since before January 1, 1982 through May 4, 1988 as required by section 1104(c)(2)(B) of the LIFE Act. The director further determined that the applicant had failed to provide original court documents to establish the disposition of criminal charges that had been brought against him. The director concluded the applicant had failed to establish his eligibility to adjust to permanent residence under the provisions of the LIFE Act, and therefore, denied the application.

On appeal, the applicant stated that he had provided the court disposition to show that criminal charges brought against him had been dismissed. The applicant reiterated his claim of residence in this country for the requisite period and asserted that the affidavits he had submitted were sufficient evidence in support of such claim. The applicant contended that he did not possess contemporaneous documents because he was an undocumented alien during the period in question.

Subsequent to the filing of the appeal, the applicant submitted a letter to the AAO on October 1, 2008 requesting that his Form I-485 LIFE Act application and appeal be withdrawn. Although this request to withdraw the appeal shall be honored, the following facts must be noted.

An applicant for permanent resident status under 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. Section 1104(c)(2)(B) of the LIFE Act; 8 C.F.R. § 245a.11(b).

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 November 24, 1989. At part #33 of the Form I-687 application where applicants were asked to list all residences in the United States since their first entry, the applicant indicated that he lived at [REDACTED] New York, New York from March 1981 through the date the Form I-687 application was submitted on November 24, 1989.

In support of his claim of continuous residence in the United States for the requisite period, the applicant included two original envelopes postmarked November 30, 1981 and November 26, 1982, respectively. Both of these envelopes were purportedly mailed from Senegal to the applicant at the address he claimed to have resided at part #33 of the Form I-687 application and contain Senegalese postage stamps. A review of the *2006 Scott Standard Postage Stamp Catalogue* Volume 5 (Scott Publishing Company 2005) revealed the following:

- The envelope postmarked November 30, 1981 bears a stamp commemorating World Food Day with a value of seventy francs that contains a stylized illustration of a child observing a woman stirring a cooking pot with a pile of produce and a fish in the forefront. This stamp is listed at page 980 of Volume 5 of the *2006 Scott Standard Postage Stamp Catalogue* with catalogue number [REDACTED]. The catalog lists this stamp's date of issue as December 16, 1984. The envelope also bears a postage stamp commemorating "The Struggle of Black People Against Apartheid" with a value of one hundred forty francs that contains a stylized illustration of the head of [REDACTED] over a hand holding a broken chain. This stamp is listed at page 981 of Volume 5 of the *2006 Scott Standard Postage Stamp Catalogue* with catalogue number [REDACTED]. The catalogue lists this stamp's date of issue as July 31, 1987.
- The envelope postmarked November 26, 1982 bears a postage stamp with a value of two hundred francs that contains a stylized illustration of an octopus. This stamp is listed at page 981 of Volume 5 of the *2006 Scott Standard Postage Stamp Catalogue* with catalogue number [REDACTED]. The catalogue lists this stamp's date of issue as January 2, 1987.

The fact that envelopes postmarked November 30, 1981 and November 26, 1982, both bear stamps that were not issued until after the date of these postmarks establishes that the applicant utilized documents in a fraudulent manner and made material misrepresentations in an attempt to establish your residence within the United States for the requisite period. By engaging in such an action, the applicant seriously undermined his own credibility as well as the credibility of his claim of continuous residence in this country for the period from prior to January 1, 1982 to May 4, 1988.

In addition, a review of the record reveals that the applicant previously submitted a Form I-589, Request for Asylum in the United States, to the Service on November 29, 1993. At #12 of Part A of the Form I-589 asylum application, the applicant testified that he arrived in the United States at New York, New York on August 7, 1987. Additionally, at #24 of Part D of the Form I-589 asylum application where applicants were asked if they had traveled to the United States before, the applicant answered no. Further, at #26 of Part D of the Form I-589 asylum application, the applicant testified that he departed Senegal on August 7, 1987. The record shows that the applicant signed the Form I-589 asylum application thereby certifying under the penalty of perjury that the information contained in such application was true and correct. Moreover, the Form I-589 asylum application contains no indication that it was prepared by any individual other than the applicant.

The record also contains another Form I-589 asylum application that had been prepared by the applicant's former attorney and subsequently submitted to the Service on June 22, 1995. At #1 of part C of the Form I-589 asylum application, the applicant testified that Senegalese government officials and police had confiscated his merchandise and destroyed his store in 1987 because he

had voiced his opinions regarding corruption and bribery within the government. The applicant further testified that he was then falsely arrested and he and his family were subsequently forced to flee the country with a warning not to return to Senegal. With this particular Form I-589 asylum application, counsel also included a Form G-325A, Report of Biographic Information. On the Form G-325A biographic report, the applicant testified that he resided in Touba, Senegal from his birth on March 20, 1957 to August 1987. The record shows the applicant signed both the Form I-589 asylum application and Form G-325A biographic report thereby certifying under the penalty of perjury that the information contained in such documents was true and correct.

The fact that the applicant provided testimony in two separate Form I-589 asylum applications and the Form G-325 biographic report that directly contradicted his claim of residence in the United States for the requisite period only serves to further lessen his overall credibility and the credibility of such claim of residence.

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, 591-92 (BIA 1988).

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 he submitted a falsified document, we affirm our finding of fraud. Consequently, the applicant is ineligible to adjust to permanent residence under section 1104 of the LIFE Act on this basis.

ORDER: The appeal is dismissed based upon its withdrawal. This decision constitutes a final notice of eligibility.