



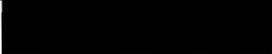
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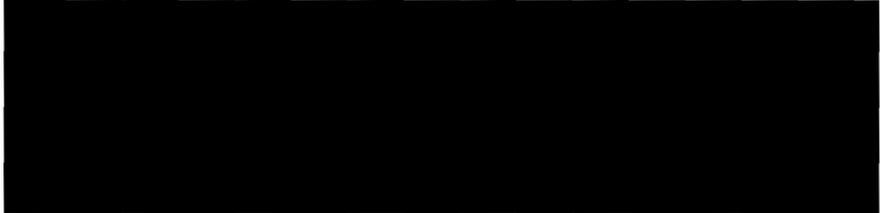
Office: Los Angeles

Date: FEB 19 2008

MSC 02 200 62108

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

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 indicated that she had unsuccessfully attempted to obtain school records in support of 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 as well as new documents 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.

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 meet his or her burden of establishing continuous unlawful residence in the United States during the requisite period. Here, the applicant has failed to meet this burden.

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 July 29, 1991. 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 February 1985 and [REDACTED],” in Huntington Park, California from March 1985 to April 1990. 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 housekeeper for [REDACTED] in Culver City, California from November 1984 to May 1986, cashier for [REDACTED] in South Gate, California from July 1986 to November 1986, and salesperson for [REDACTED] s Bridal in Huntington Park, California from January 1987 to July 1988.

In support of her claim of continuous residence in the United States from prior to January 1, 1982, the applicant submitted an affidavit that is signed by [REDACTED]. [REDACTED] indicated that he had personal knowledge that the applicant resided in the United States since they first met in 1981 and had subsequently grown very close. [REDACTED] declared that the applicant had traveled to Mexico on June 1, 1987 because of a family emergency and then returned to this country on July 7, 1987. However, other than attesting to the applicant’s absence in 1987, Mr. [REDACTED] failed to provide any specific detailed testimony to corroborate the applicant’s claim of residence in the United States for the requisite period.

The applicant provided an affidavit signed by [REDACTED] who asserted that he had personal knowledge that the applicant resided on [REDACTED] in Los Angeles, California from February 1983 to June 17, 1992 the date the affidavit was executed. However, [REDACTED]’s testimony that the applicant resided at an unspecified address on [REDACTED] from 1983 through 1992 directly contradicted the applicant’s testimony that she resided at [REDACTED],” in Los Angeles, California from September 1981 to February 1985 at part 333 of the Form I-687

application. In addition, [REDACTED] failed to attest to the applicant's residence in the United States from prior to January 1, 1982 up through 1983.

The applicant included an affidavit that is signed by [REDACTED]. [REDACTED] stated that the applicant was his sister and he had personal knowledge that she resided in this country since July 1981. [REDACTED] provided a listing of the applicant's addresses of residence in the United States during the requisite period that corresponded to the listing provided at part #33 of the Form I-687 application. However, the probative value of [REDACTED]'s testimony is limited in that he has acknowledged that he is the applicant's brother, an immediate family member who must be viewed as having an interest in the outcome of proceedings, rather than an independent and disinterested third party.

The applicant also submitted photocopies of contemporaneous documents to demonstrate her residence in this country in 1990 and 1991. However, such evidence cannot be considered as probative to the applicant's claim of residence in this country from prior to January 1, 1982 to May 4, 1988 as it relates to that period subsequent to the termination of the requisite period on May 4, 1988. Nevertheless, the applicant included photocopies of two receipts from Million Dollar Discount Inc., in Los Angeles, California. The first of these receipts was numbered [REDACTED] dated February 3, 1990, and listed the applicant as the purchaser of a Toshiba ER6630 Oven for \$118.00. The second receipt was numbered [REDACTED] dated October 10, 1990, and listed the applicant as the purchaser of a Kenwood KRC410 for \$180.00.

Subsequently, on April 18, 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 submitted a photocopied receipt reflecting the payment of \$80.00 on November 16, 1981 to [REDACTED].

The applicant provided a photocopied receipt reflecting the payment of \$150.00 on June 26, 1986 to the Hamilton's Women's Clinic at [REDACTED] in Los Angeles, California.

The applicant included photocopied immunization records that reflect dates she purportedly received vaccinations and underwent tests at the "MLK/SAC Team" at [REDACTED] in Los Angeles, California. The dates of treatment listed were September 30, 1981, December 9, 1981, March 17, 1982, July 14, 1982, November 17, 1982, February 9, 1983, June 1, 1983, October 12, 1983, April 11, 1984, July 25, 1984, and December 26, 1984.

The applicant submitted a letter containing the letterhead of the Florence/Firestone Health Center at [REDACTED] in Los Angeles, California that was signed by [REDACTED]. [REDACTED] listed her position as "International clerk" and indicated that the applicant visited this office on September 5, 1981, December 9, 1981, May 5, 1982, November 10, 1982, August 17, 1983, and January 9, 1984.

The applicant provided an affidavit signed by [REDACTED] who stated that she first met the applicant in October 1982 when the applicant moved into the building that her parents managed. [REDACTED] contended that she had personal knowledge that the applicant resided in the United States from the date they first met up to the present. [REDACTED] testified that she and the applicant became good friends and their friendship had grown through the years. Although Ms. [REDACTED] claimed that the applicant lived in building managed by her parents beginning in October of 1982, she failed to specify the address or location of such building. Additionally, Ms. [REDACTED] did not attest to the applicant's residence in this country since prior to January 1, 1982 through that date she first met the applicant in October 1982.

The applicant included an affidavit that was signed by [REDACTED]. [REDACTED] declared that she had personal knowledge that the applicant resided in the United States since June 1981. [REDACTED] indicated that the source of this knowledge was derived from the fact she moved into the same building where the applicant resided upon her arrival in this country in 1981. [REDACTED] noted that she and the applicant became good friends and their relationship continued through the present. While [REDACTED] asserted that she and the applicant lived in the same building beginning in 1981, she failed to specify the address or location of such building. Further, [REDACTED]'s testimony that the applicant had resided in this country since June 1981 conflicted with the applicant's testimony as the applicant failed to list any residence in the United States prior to September 1981 at part #33 of the Form I-687 application.

The applicant submitted an affidavit signed by [REDACTED] who stated that she had personal knowledge that the applicant resided in the United States since February 1982. [REDACTED] asserted that she first met the applicant at registration for an after school English class in El Monte, California at they remained friends up through the present. Nevertheless, [REDACTED] failed to provide testimony regarding the applicant's residence in this country before January 1, 1982 up through that date they first met in February 1982.

The applicant provided a letter containing the letterhead of Cyro-Chem Inc., in Carson, California that was signed by [REDACTED] who listed his position as president. In his letter, [REDACTED] stated that the applicant worked for this enterprise from July 1985 to April 1990 as an assistant clerk in accounts payable and gave a listing of her duties in this position. However, [REDACTED] failed to provide the applicant's address of residence during that period she was employed by Cyro-Chem Inc., from July 1985 through May 4, 1988 as required by 8 C.F.R. § 245a.2(d)(3)(i). Further, [REDACTED] failed to attest to the applicant's residence in the United States from prior to January 1, 1982 up to July 1985. Moreover, the applicant failed to list any employment with this enterprise 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 failed to provide any explanation as to why her purported employment with Cyro-Chem Inc., was omitted from the listing of her employment on the Form I-687 application.

The applicant included a letter containing the letterhead and seal of the South Gate Community Adult School in South Gate, California that was signed by [REDACTED] who listed her position as administrative assistant. [REDACTED] verified the applicant's enrollment, attendance, and successful completion of the class, English as a Second Language, Level 5, at this institution in 1985-1986. However, [REDACTED] failed to attest to the applicant's residence in the United States either in that period from prior to January 1, 1982 up through that date she began this class in 1985 or that period after the date she completed this class through May 4, 1988.

The applicant submitted an affidavit that was signed by [REDACTED]. [REDACTED] stated that she first met the applicant at a relative's party on an unspecified date and they subsequently became friends and saw each other on a daily basis since they resided in close proximity to one another. [REDACTED] noted that she had personal knowledge that the applicant resided at [REDACTED] in Huntington Park, California from 1982 to 1984. However, [REDACTED]'s testimony that the applicant resided at [REDACTED] in Huntington Park, California from 1982 to 1984 directly contradicted the applicant's testimony that she resided at this address from March 1985 to April 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. In addition, [REDACTED] failed to provide any testimony that the applicant either resided in this country prior to January 1, 1982 or resided in the United States after 1984 through May 4, 1988.

The applicant provided photocopies of two receipts from Million Dollar Discount Inc., in Los Angeles, California, dated October 10, 1986 and February 3, 1987, respectively. The receipt dated October 10, 1986 was numbered 03211 and listed the applicant as the purchaser of a Kenwood KRC410 for \$180.00. The receipt dated February 3, 1987 was numbered [REDACTED] and listed the applicant as the purchaser of a Toshiba ER6630 Oven for \$118.00.

On April 12, 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 May 26, 2004.

On appeal, the applicant indicated that she had unsuccessfully attempted to obtain school records in support of 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 as well as new documents in support of the appeal.

The applicant submitted a photocopied receipt from [REDACTED] Apparel and Home Interiors at [REDACTED] in Los Angeles, California that was dated May 30, 1984 and listed the applicant as purchaser of a pants set for \$15.29 including tax.

The applicant provided a photocopied receipt from an indeterminate store reflecting a \$5.00 layaway payment made by the applicant for a \$19.99 dress on April 12, 1986.

The applicant included a photocopied receipt from Million Dollar Discount Inc., in Los Angeles, California that was dated July 11, 1984 and listed her as purchaser but failed to list either the item purchased or purchase price.

As previously discussed, the applicant submitted photocopies of two receipts from Million Dollar Discount Inc., in Los Angeles, California with her Form I-687 application. The first of these receipts is numbered [REDACTED] dated February 3, 1990, and listed the applicant as the purchaser of a Toshiba ER6630 Oven for \$118.00. The second receipt is numbered [REDACTED], dated October 10, 1990, and listed the applicant as the purchaser of a Kenwood KRC410 for \$180.00. With the Form I-485 LIFE Act application, the applicant submitted photocopies of two receipts from Million Dollar Discount Inc., in Los Angeles, California. The first of these receipts is numbered [REDACTED], dated February 3, 1987, and listed the applicant as the purchaser of a Toshiba ER6630 Oven for \$118.00. The second receipt is numbered [REDACTED], dated October 10, 1986, and lists the applicant as the purchaser of a Kenwood KRC410 for \$180.00. It is clearly evident that these photocopied receipts are merely altered copies of the same receipts that were originally provided with the applicant's Form I-687 application. Consequently, it is concluded that the applicant has 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.

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 January 16, 2008 informing her that it was the AAO's intent to dismiss her appeal based upon the fact that she utilized the photocopied receipts 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 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 photocopied receipts 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.12(e), 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.12(e) 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 she 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. 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.

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