



U.S. Citizenship
and Immigration
Services

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invasion of personal privacy

[REDACTED]

FILE: [REDACTED]
MSC 01 284 60246

Office: Los Angeles

Date: FEB 28 2008

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:

[REDACTED]

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.

A handwritten signature in black ink, appearing to read "R.P. Wiemann".

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 since before January 1, 1982 through May 4, 1988 as required by section 1104(c)(2)(B) of the LIFE Act.

On appeal, counsel reiterated the applicant's claim of residence in this country for the requisite period and indicated that the applicant's former counsel "...inadequately stated incorrect information."

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).

The regulation at 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 information contained in the attestation.

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 June 11, 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 Garden Grove, California from November 1981 to May 1984, “[REDACTED]” in Santa Ana, California from May 1984 to August 1984, “[REDACTED]” in Santa Ana, California from August 1984 to May 1985, “[REDACTED]” from May 1985 to November 1987, and “[REDACTED]” in Stanton, California from November 1987 to May 18, 1990, the date the Form I-687 application was submitted. 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 self-employed in various occupations from November 1985 to September 1989.

In support of her claim of continuous residence in the United States from prior to January 1, 1982, the applicant submitted photocopies of envelopes postmarked March 7, 1982 and September 24, 1985, respectively. Both envelopes were purportedly mailed from Mexico to the applicant at the addresses she listed as her address of residence for each respective date at part #33 of the Form I-687 application.

The applicant provided a letter that is signed by [REDACTED]. [REDACTED] stated that she employed the applicant as live-in housekeeper from November 1985 to September 1989. Ms. [REDACTED] declared that the applicant did not pay for rent or food and was paid a weekly salary of \$65.00 during her period of employment. However, it must be noted that the applicant failed to list any employment as a live-in housekeeper for [REDACTED] but instead testified that she was self-employed in various occupations from November 1985 to September 1989 at part #36 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 November 1985.

The applicant included four separate affidavits that are signed by [REDACTED]. A review and comparison of the signatures on these four affidavits and the signature of [REDACTED] contained in the letter discussed in the prior paragraph reveals that [REDACTED] and [REDACTED] are one and the same individual. [REDACTED] attested to the applicant's addresses of residence in this country for those periods from May 1984 to August 1984, August 1984 to May 1985, from May 1985 to November 1987, and November 1987 to August 1, 1990, the date all of the affidavits were executed. However, [REDACTED] failed to provide any testimony relating to the applicant's residence in this country from before January 1, 1982 up to May 1984 in these affidavits.

The applicant submitted two affidavits that are signed by [REDACTED] and [REDACTED] respectively. Both affiants indicated they had personal knowledge that the applicant resided in Garden Grove, California from November 1981 to May 1984, Santa Ana, California from May 1984 to November 1987, and Stanton, California from November 1987 to August 1, 1990, the date the affidavits were executed. Both affiants asserted that such knowledge was derived from their friendship with the applicant.

The applicant provided two affidavits both signed by [REDACTED] who stated that the applicant resided with her at [REDACTED] in Garden Grove, California from November 1981 to May 1984. [REDACTED] indicated that she was responsible for the applicant who paid no rent during this period. [REDACTED] claimed that the applicant was never registered for school and never received vaccinations in this period. Nevertheless, [REDACTED] failed to provide any testimony relating to the applicant's residence in the United States after May 1984 through May 4, 1988.

Subsequently, on July 11, 2001, the applicant filed her Form I-485 LIFE Act application. At part #3C of the Form I-485 LIFE Act application where applicants were asked to list their memberships in or affiliations with every political organization, association, fund, foundation, party, club, society, or similar group, the applicant listed "NONE."

In support of claim of residence in this country for the requisite period, the applicant submitted fourteen original envelopes postmarked July 29, 1981, October 23, 1981, June 9, 1982, October 23, 1982, October 23, 1982, January 3, 1983, August 3, 1983, December 3, 1983, January 12, 1984, May 19, 1984, July 22, 1984, January 15, 1985, March 18, 1986, and June 20, 1987. All fourteen envelopes were purportedly mailed from Mexico to the applicant at the addresses she listed as her address of residence for each respective date at part #33 of the Form I-687 application.

The applicant provided photocopies of two receipts from Avon that are dated December 15, 1981 and December 25, 1981, respectively. The receipt dated December 15, 1981 listed the applicant

as the purchaser of single container of lotion for \$10.63. The receipt dated December 25, 1981 listed the applicant as the purchaser of a single container of cream for \$2.65.

The applicant included a photocopied receipt from [REDACTED] of France that is dated May 17, 1987. The receipt listed the applicant as the purchaser of a single container of cream for \$12.75.

In response to a Form I-72, Request for Additional Evidence, issued December 27, 2002, the applicant submitted a letter containing the letterhead and seal of Saint Polycarp Church in Stanton, California that was signed by [REDACTED] who listed his position as pastor. In his letter, [REDACTED] address of residence and stated that she had been a registered parishioner of this church since 1986. [REDACTED] declared that the applicant had attended Spanish language Sunday mass on a regular basis since such date. Although [REDACTED] asserted that the applicant was a parishioner of the Saint Polycarp Church since 1986, the applicant failed to list any membership in this church at either part #34 of the Form I-687 application or part #3C of the Form I-485 LIFE Act application. No explanation was put forth as to why the applicant failed to list her affiliation with Saint Polycarp Church if in fact she was an active member of the church since 1986. In addition, Father Poettgen failed to list the applicant's addresses of residence during the entire period she had been affiliated with the church beginning in 1986 as required by 8 C.F.R. § 245a.2(d)(3)(v).

On October 18, 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.

In response, the applicant's former counsel submitted a statement in which she asserted that it was difficult for the applicant to obtain additional documentation in support of her claim of residence because she was an undocumented alien who was very young and did not attend school during the requisite period.

The applicant provided a new affidavit signed by [REDACTED] the same individual who had previously provided documentation in support of the applicant's claim of continuous residence in the United States since prior to January 1, 1982. In her most recent affidavit, [REDACTED] reiterated her prior testimony relating to the applicant's addresses of residence in this country for that portion of the requisite period after May 1984. [REDACTED] asserted that the applicant had been living with her and acknowledged that she was the applicant's cousin. However, Ms. [REDACTED] again failed to provide any testimony relating to the applicant's residence in this country from before January 1, 1982 up to May 1984. In addition, the probative value of testimony provided by [REDACTED] is limited as she has acknowledged that she is the applicant's cousin and must be considered to be a family member with an interest in the outcome of these proceedings rather than an independent disinterested witness.

The applicant included a letter containing the letterhead and seal of Saint Polycarp Church in Stanton, California that was signed by [REDACTED] who listed his position as pastor. In his letter [REDACTED] provided the applicant's most current address of residence and stated that she had been a registered parishioner of this church since 1986. [REDACTED] declared that the applicant had attended Sunday mass on a regular basis since such date. While [REDACTED] testified that the applicant had been a parishioner of the Saint Polycarp Church since 1986, the applicant failed to list any membership in this church at either part #34 of the Form I-687 application or part #3C of the Form I-485 LIFE Act application. No explanation was advanced as to why the applicant failed to list her affiliation with Saint Polycarp Church if in fact she was an active member of this church since 1986. Further, [REDACTED] failed to list the applicant's addresses of residence during the entire period she had been affiliated with the church beginning in 1986 as required by 8 C.F.R. § 245a.2(d)(3)(v).

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 November 24, 2004.

On appeal, the applicant's current counsel reiterated the applicant's claim of residence in this country for the requisite period and indicated that the applicant's former counsel "inadequately stated incorrect information." However, as of the date of this decision counsel has failed to submit a statement or evidence to demonstrate that the applicant's former counsel made any errors or mistakes stating information relating to the applicant's claim of residence in the United States since prior to January 1, 1982.

As previously discussed, the applicant submitted original postmarked envelopes with the Form I-485 LIFE Act application that was filed on July 11, 2001. A review of eight of these original envelopes reflects that all were purportedly mailed from Mexico to the applicant at [REDACTED], in Garden Grove, California. The eight envelopes are postmarked July 29, 1981, October 23, 1981, June 9, 1982, October 23, 1982, October 23, 1982, January 3, 1983, August 3, 1983, and December 3, 1983, respectively. The eight envelopes all bear the same identical Mexican postage stamp. A review of the *2006 Scott Standard Postage Stamp Catalogue* Volume 4 (Scott Publishing Company 2005) reveals the following:

The Mexican stamp affixed to these eight envelopes has a value of fifty pesos and contains an illustration of a sliced tomato and the notation "Mexico Exporta" encircling an eagle's head in the right hand corner. This stamp is listed at page 801 of Volume 4 of the *2006 Scott Standard Postage Stamp Catalogue* as catalogue number 1493 A320. The catalogue lists this stamp's date of issue as 1987.

The fact that envelopes postmarked July 29, 1981, October 23, 1981, June 9, 1982, October 23, 1982, October 23, 1982, January 3, 1983, August 3, 1983, and December 3, 1983, respectively,

all bear a stamp that was not issued until well after the date of these postmarks established that the applicant utilized these documents in a fraudulent manner and made material misrepresentations in an attempt to establish residence within the United States for the requisite period. By engaging in such an action, the applicant seriously undermined her credibility as well as the credibility of her claim of continuous residence in this country for the period from prior to January 1, 1982 to May 4, 1988.

Section 212(a)(6)(C) of the Immigration and Nationality Act (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.

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 petition. 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 the applicant misrepresented the date that she first arrived in the United States and thus casts doubt on her eligibility for adjustment to permanent residence under the provisions for the LIFE Act.

The AAO issued a notice to the applicant and her most current counsel on January 16, 2008 informing the parties that it was the AAO's intent to dismiss the applicant's 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 applicant and counsel were granted fifteen days to provide substantial evidence to overcome, fully and persuasively, these findings. However, as of the date of this decision neither counsel nor the applicant has submitted 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 existence of derogatory information that establishes the applicant used postmarked envelopes in a fraudulent manner and made material misrepresentations seriously undermines 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 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. 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 is, therefore, ineligible for permanent resident status under section 1104 of the LIFE Act on this basis.

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