

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**

L2

FILE:

MSC 02 232 60343

Office: NEW YORK

Date: APR 28 2009

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. 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.

  
John F. Grissom  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the Director, New York, New York, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application because 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.

On appeal, the applicant reiterated his claim of residence in this country for the required period and asserted that he had submitted sufficient evidence to demonstrate his residence in this country during the period in question.

An applicant for permanent resident status under section 1104 of 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 and 8 C.F.R. § 245a.11(b).

The applicant 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 “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.* At 80. 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. *Id.*

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, 431 (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 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 Act, on May 19, 1991. Subsequently, the applicant filed his Form I-485 LIFE Act application on May 20, 2002.

In support of his claim of residence in the United States for the requisite period, the applicant submitted affidavits of residence, employment letters, original receipts, a residential lease, a rental agreement for furniture, and original envelopes postmarked May 7, 1982, May 8, 1983, July 9, 1983, September 3, 1985, March 6, 1987, and April 7, 1988.

The director determined that the applicant failed to submit sufficient credible evidence demonstrating his residence in the United States in an unlawful status during the period in question and, therefore, denied the Form I-485 LIFE Act application on July 5, 2007.

The applicant’s remarks on appeal regarding the sufficiency of evidence he submitted to demonstrate his residence in this country during the period in question have been considered. However, during the adjudication of the applicant’s appeal, information came to light that adversely affects the applicant’s overall credibility as well as the credibility of his claim of residence in this country from prior to January 1, 1982 to May 4, 1988. As has been previously discussed, the applicant submitted documentation including original envelopes postmarked May 7, 1982, May 5, 1983, September 3, 1985, March 6, 1987, July 4, 1987, and April 7, 1988, respectively. The envelopes postmarked May 7, 1982 and July 4, 1987 bear Pakistani postage stamps and were represented as having been mailed from Pakistan to the applicant at addresses in this country that he claimed as residences as of the date of each respective postmark. A review of the *2009 Scott Standard Postage Stamp Catalogue Volume 5* (Scott Publishing Company 2008), reveals the following regarding the Pakistani postage stamps affixed to the envelopes:

- The original envelope postmarked May 7, 1982 bears two of the same postage stamp each with a value of fifty paisa that contains a stylized illustration of the Hyderabad Fort in Pakistan. This stamp is listed at page 15 of Volume 5 of the *2009 Scott Standard Postage Stamp Catalogue* as catalogue number [REDACTED]. The catalogue lists this stamp’s date of issue as 1986. The envelope also bears a stamp with a value of four rupees that commemorates Himalayan black bears and the World Wildlife Fund (WWF). This stamp contains an illustration of a bear on

a slope with the WWF emblem in the upper left corner. This stamp is listed at page 19 of Volume 5 of the *2009 Scott Standard Postage Stamp Catalogue* as catalogue number [REDACTED]. The catalogue lists this stamp's date of issue as September 16, 1989.

- The original envelope postmarked July 4, 1987 bears a stamp with a value of four rupees that commemorates Himalayan black bears and the World Wildlife Fund (WWF). This stamp contains an illustration of a bear on a slope with the WWF emblem in the upper right corner. This stamp is listed at page 19 of Volume 5 of the *2009 Scott Standard Postage Stamp Catalogue* as catalogue number [REDACTED]. The catalogue lists this stamp's date of issue as September 16, 1989.

The fact that original envelopes postmarked May 7, 1982 and July 4, 1987, both bear postage stamps that were not issued until well after the date of each respective postmark establishes that the applicant utilized these documents in a fraudulent manner and made material misrepresentations in an attempt to establish his residence within the United States for the requisite period. This derogatory information establishes that the applicant made material misrepresentations in asserting his claim of residence in the United States for the period in question and thus casts doubt on his eligibility for adjustment to permanent residence under the provisions of the LIFE Act. By engaging in such an action, the applicant has negated his own credibility, the credibility of his claim of continuous residence in this country for the requisite period, and the credibility of all documentation submitted in support of such claim.

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 AAO issued a notice to the applicant on February 25, 2009 informing him that it was the AAO's intent to dismiss his appeal based upon the fact that he utilized the postmarked envelopes cited above in a fraudulent manner and made material misrepresentations in an attempt to establish his residence within the United States for the requisite period. The applicant was granted fifteen days to provide evidence to overcome, fully and persuasively, these findings.

In response, the applicant claimed that the paralegal who prepared his initial application package created and submitted false documents in support of his claim of residence for the requisite period without the applicant's knowledge. However, a review of the applicant's original Form I-687 application provides no indication that this document was prepared by anyone other than the applicant himself. Further, a review of affidavits submitted with the Form I-687 application reveals that such documents were notarized by two different individuals rather than one person. Although the record contains a Form G-28, Notice of Appearance as Attorney or Representative, reflecting

that the applicant retained an attorney to represent him in these proceedings, the Form G-28 is dated July 31, 1991, more than two months after the applicant had submitted his original Form I-687 application on May 19, 1991. Moreover, the applicant has failed to provide any evidence to support the assertion that an unnamed paralegal rather than the applicant who perpetrated the fraud in question. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998)(citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

The existence of derogatory information that establishes the applicant used a postmarked envelope in a fraudulent manner and made material misrepresentations negates 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 his burden of proof in establishing that he has resided in the United States for the requisite period 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 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. Because the applicant has failed to provide independent and objective evidence to overcome, fully and persuasively, our finding that he 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.

A finding of fraud is entered into the record, and the matter will be referred to the United States Attorney for possible prosecution as provided in 8 C.F.R. § 245a.21(c).

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