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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
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FILE:



Office: HOUSTON

Date: AUG 03 2009

MSC 02 214 62299

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.

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, Houston, Texas 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, counsel reiterated the applicant the applicant's claim of residence in this country for the requisite period and asserted that the applicant had submitted sufficient evidence in support of such claim. Counsel included copies of previously submitted documentation as well as two new affidavits in support of the applicant's appeal.

The applicant subsequently submits a letter dated June 3, 2009 in which he contends that he and counsel both made prior requests to withdraw his appeal. However, the record contains no evidence to establish that either counsel or the applicant made a written request to withdraw the appeal as required by 8 C.F.R. § 103.3(a)(2)(ix), prior to the receipt of the applicant's letter dated June 3, 2009. While 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 Act, on February 22, 1991. Subsequently, the applicant filed his Form I-485 LIFE Act application on May 2, 2002.

In support of his claim of continuous residence in the United States since prior to January 1, 1982, the applicant submitted documentation including a photocopied envelope postmarked January 29, 1980. This envelope bears a United States postage stamp and was represented as having been mailed to the applicant at an address in this country that he claimed as a residence during the requisite period. A review of the *2009 Scott Standard Postage Stamp Catalogue* Volume 1 (Scott Publishing Company 2008), reveals the following:

- The envelope postmarked January 29, 1980 bears a stamp with a value of twenty-five cents that commemorates Yosemite National Park. The stamp contains a stylized illustration of an American Flag flying over a landscape of a mountain and pine trees with the printed notation "Yosemite" in the bottom left corner. This stamp is listed at page 715 of Volume 1 of the *2009 Scott Standard Postage*

Stamp Catalogue with catalogue number [REDACTED] The catalogue lists this stamp's date of issue as May 20, 1988.

The fact that an envelope postmarked January 29, 1980 bears a postage stamp that was not issued until well after the date of this postmark establishes that the applicant utilized this document in a fraudulent manner and made material misrepresentations in an attempt to establish his residence within the United States for the requisite period. By engaging in such action, the applicant negated 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.

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 a falsified document, 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.