

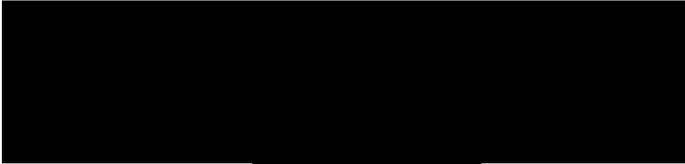
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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
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FILE: [REDACTED]
MSC 02 001 65636

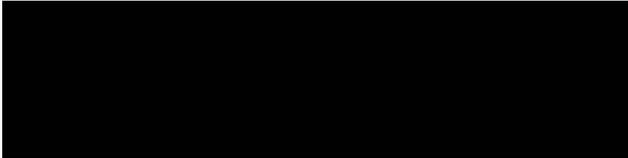
Office: NEW YORK

Date: FEB 04 2009

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:



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 director of the New York District Office denied the application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act and certified her decision to the Administrative Appeals Office (AAO). The appeal will be dismissed with a finding of inadmissibility.

The district director denied the application because the applicant failed to demonstrate that she had continuously resided in the United States in an unlawful status from before January 1, 1982 through May 4, 1988.

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 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).

On October 1, 2001, the applicant filed a Form I-485, Application to Register Permanent Resident or Adjust Status, for permanent resident status under the LIFE Act. In connection with her Form I-485, the applicant submitted two postmarked envelopes, addressed to the applicant at her purported residence in New York. These envelopes were purportedly mailed to her from Santiago, Dominican Republic, bear Dominican Republic postage stamps, and contain postmarks dated in 1981 and October 1987. A review of the *2009 Scott Standard Postage Stamp Catalogue Volume 2* (Scott Publishing Company 2008), reveals the following regarding the Dominican Republic postage stamps affixed to the postmarked envelopes:

- The envelope with an incomplete 1981 postmark with a value of 5 centavos depicts Edible plants, sorghum bicolor. This stamp is listed at page 876 of Volume 2 of the *2009 Scott Standard Postage Stamp Catalogue* and is listed as catalogue number [REDACTED]. The catalogue lists this stamp's date of issue as August 21, 1987.
- The envelope postmarked in October 1987, bears a postage stamp with a value of 5 centavos that depicts a baseball stamp commemorating the 8th National Games in San Cristobal in 1987. This stamp contains a misprint in that the 5 centavo denomination that was not printed on the stamp. This stamp is listed at page 876 of Volume 2 of the *2009 Scott Standard Postage Stamp Catalogue* and is listed as catalogue number [REDACTED]. The catalogue lists this stamp's date of issue as November 19, 1987. There is no evidence of previous or later issues of the same or similar stamp.

The fact that the envelopes postmarked in 1981 and in October 1987 bear stamps first issued beginning in August 1987 and November 1987, respectively, tends to establish that the applicant 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. By engaging in such an action, the applicant has seriously diminished her own credibility as well as the credibility of her

claim of continuous residence in the United States for the period from prior to January 1, 1982 through May 4, 1988.

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).

A Notice of Intent to Deny and Make a Finding of Fraud (NOID), dated January 6, 2009, was mailed to the applicant and counsel at their addresses of record. The AAO provided the applicant and counsel fifteen (15) days from the date of the NOID to respond. The record reflects that no response was received.

The above derogatory information indicates that the applicant has misrepresented the date that she first arrived and resided in the United States, and thus casts doubt on her eligibility for this visa classification. Consequently, it is concluded that the applicant 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. Therefore, the applicant is ineligible for permanent resident status under section 1104 of the LIFE Act on this basis.

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.

Under BIA precedent, a material misrepresentation is one which “tends to shut off a line of inquiry which is relevant to the alien's eligibility and which might well have resulted in a proper determination that he be excluded.” *Matter of S- and B-C-*, 9 I&N Dec. 436, 447 (BIA 1961).

By filing the instant application and submitting the fraudulent evidence described above, 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 the postmarked envelopes were falsifications, we affirm our finding of fraud. In addition, an applicant for permanent resident status under the provisions of the LIFE Act must establish that he or she is admissible as an immigrant. Section 1104(c)(2)(D)(i) of the LIFE Act. Because of the applicant's attempt to procure a benefit under the Act through fraud, we find that the applicant is inadmissible under section 212(a)(6)(C) of the Act.

An application or petition that fails to comply with the technical requirements of the law may be denied by the AAO even if the director does not identify all the grounds for denial in the initial decision. *See Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd*, 345 F.3d 683 (9th Cir. 2003); *see also Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989)(noting that the AAO reviews appeals on a *de novo* basis).

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