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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



U.S. Citizenship
and Immigration
Services

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FILE:

MSC 02 113 63318

Office: NEW YORK

Date: SEP 08 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:

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 District Director, New York, New York, 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 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 counsel reiterated 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 documents in support of the appeal.

Subsequent to the filing of the appeal, the counsel submitted a letter from the applicant to the AAO on August 18, 2009 in which he requested that his Form I-485 LIFE Act application and appeal be withdrawn. Although 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 Immigration and Nationality Act (Act), on December 7, 1990. The applicant subsequently filed the Form I-485 LIFE Act application on January 21, 2002.

In support of his claim of residence in the United States since prior to January 1, 1982, the applicant submitted documentation including original envelopes postmarked April 4, 1981, July 18, 1981, February 19, 1982, May 5, 1982, December 12, 1983, February 9, 1984, July 8, 1984, December 1, 1986, an indeterminate day of February 1987, September 8, 1987, January 19, 1988, and February 9, 1988, respectively. These envelopes bear Bangladeshi postage stamps and were represented as having been mailed from Bangladesh to you at addresses that you claimed as residences in this country as of the date of these respective postmarks. A review of the *2009 Scott Standard Postage Stamp Catalogue* Volume 1 (Scott Publishing Company 2008), reveals the following regarding the postage stamps affixed to these envelopes:

- The envelopes postmarked April 4, 1981 and May 5, 1982 each bear a postage stamp with a value of two takas that depicts the terminal at Zia International Airport. This stamp is listed at page 735 of Volume 1 of the *2009 Scott Standard Postage Stamp Catalogue* with catalogue number 242 A70. The catalogue lists this stamp's date of issue as December 21, 1983. Both envelopes also bear two of the same stamp each with a value of three takas that depicts an individual sorting

mail utilizing a postal sorting machine. This stamp is listed at page 736 of Volume 1 of the *2009 Scott Postage Stamp Catalogue* with catalogue number 270 A70. The catalogue lists this stamp's date of issue as January 11, 1986.

- The envelopes postmarked July 18, 1981, February 19, 1982, and January 19, 1988, all bear a stamp with a value of ten takas that depicts the Chittagong Urea Fertilizer Plant. This stamp is listed at page 738 of Volume 1 of the *2009 Scott Standard Postage Stamp Catalogue* with catalogue number 352 A123. The catalogue lists this stamp's date of issue as July 8, 1989.
- The envelope postmarked December 1, 1986 bears a stamp with a value of three takas that depicts cargo being loaded on a jet airplane. This stamp is listed at page 738 of Volume 1 of the *2009 Scott Standard Postage Stamp Catalogue* and is listed as catalogue number 350 A121. The catalogue lists the date of issue for this stamp as April 30, 1989.

The fact that envelopes postmarked April 4, 1981, July 18, 1981, February 19, 1982, May 5, 1982, December 1, 1986, and January 19, 1988 all bear postage stamps that were not issued until after the date of these postmarks 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. 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 falsified documents, 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.