

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

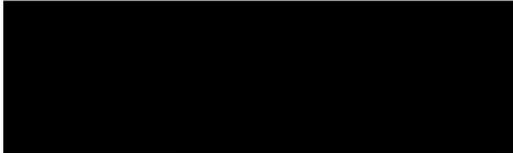
U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

C2



FILE: [REDACTED]
MSC 01 289 60380

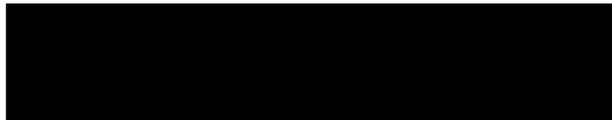
Office: SEATTLE

Date: MAR 19 2010

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.

Perry Rhew
Chief, Administrative Appeals Office

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

The director denied the application because the applicant failed to demonstrate that he resided in the United States in a continuous, unlawful status from before January 1, 1982, through May 4, 1988, as required by section 1104(c)(2)(B) of the LIFE Act. Specifically, the director noted several discrepancies in the record.

On appeal, counsel asserted that the affidavits were rejected with no effort to corroborate the affidavits. Counsel requested a copy of the Record of Proceedings (ROP) under the Freedom of Information Act (FOIA). Counsel stated that a brief or additional evidence would be submitted after receipt of the ROP. The record reflects that the request was completed on July 25, 2009 (Failure to Comply).¹ Counsel submitted a declaration from the applicant and a second declaration.

Subsequent to the filing of the appeal, the applicant submitted a letter to the AAO on July 16, 2008 requesting 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).

On July 16, 2001, the applicant filed a Form I-485, Application to Register Permanent Resident or Adjust Status pursuant to section 1104 of the Life Act (I-485 LIFE Legalization Application). The documentation that the applicant submitted in support of his claim to have arrived in the United States before January 1982 and resided in an unlawful status during the requisite period contained copies of three rent receipts dated in 1981 and 1982. The receipts reflect that the applicant paid rent to Della Temple.

The record also contains the applicant's Withdrawal of Form I-687, Application for Status as a Temporary Resident under Section 245A of the INA. In this form, the applicant stated, "I knowingly filed fraudulent receipts with the signature of Della Temple with my application to establish my U.S. residency." Based on the applicant's own testimony, the rent receipts are fraudulent.

Based on the foregoing, 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

¹ NRC2008035432.

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. Consequently, the applicant is ineligible to adjust to permanent residence under section 1104 of the LIFE Act based on a finding of fraud.

ORDER: The appeal is dismissed based upon its withdrawal. This decision constitutes a final notice of eligibility.