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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
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U.S. Citizenship
and Immigration
Services

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Date: SEP 01 2011

Office: ATLANTA

IN RE:

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, 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.¹

On appeal, the applicant reiterated his claim of residence in this country for the requisite period and asserted that he had submitted sufficient evidence in support of such claim.

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 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.*

¹ The record shows that applicant previously filed a Form I-690, Application for Waiver of Grounds of Excludability (now referred to as Inadmissibility). However, it must be noted that the filing of the Form I-690 waiver application was unnecessary as the record contains no finding that the applicant is inadmissible under section 212(a) of the Act.

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 April 3, 1990. Subsequently, the applicant filed the Form I-485 LIFE Act application on August 31, 2001.

In support of his claim of residence in the United States for the requisite period, the applicant submitted affidavits of residence, employment letters, a letter of membership, residential leases, photocopied receipts, a photocopied airline ticket dated January 1, 1987, a letter from Pakistan International Airlines regarding the applicant’s airline ticket for January 1, 1987, photographs, photocopied postmarked envelopes, and original postmarked envelopes.

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 June 17, 2010.

The applicant’s remarks on appeal relating to the sufficiency of the evidence he submitted in support of his claim of continuous residence are noted. 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 supporting documentation including original envelopes postmarked May 19, 1981, July 18, 1982, November 13, 1983, April 20, 1984, May 12, 1985, May 5, 1986, October 12, 1987, and August 13, 1988, as well as photocopied envelopes postmarked June 3, 1984 and December 13, 1986. Both the original envelopes and photocopied envelopes bear Pakistani postage stamps and were represented as having been mailed from Pakistan to you at addresses in this country that you claimed to have resided. A review of the *2010 Scott Standard Postage Stamp Catalogue Volume 5* (Scott Publishing Company 2009), reveals the following regarding the Pakistani postage stamps affixed to the envelopes:

- The original envelope postmarked on May 5, 1986 bears a stamp with a value of 2.5 rupees. This stamp commemorates the one hundredth anniversary of the founding of Aitchison College in Lahore, Pakistan in 1886 and contains a stylized illustration of the front facade of Aitchison College. This stamp is listed at page 17 of Volume 5 of the *2010 Scott Standard Postage Stamp Catalogue* as catalogue number 671 A323. The catalogue lists the date of issue for the stamp as November 3, 1986.
- The photocopied envelope postmarked on December 13, 1986 bears a stamp with a value of three rupees. This stamp commemorates the opening of the New Parliament House in Islamabad on March 23, 1987 and contains a stylized illustration of the New Parliament House. This stamp is listed at page 17 of Volume 5 of the *2010 Scott Standard Postage Stamp Catalogue* as catalogue number 678 A330. The catalogue lists the date of issue for the stamp as March 23, 1987.
- The original envelope postmarked on August 13, 1988² bears a stamp with a value of four rupees. This stamp commemorates the forty-first anniversary in 1988 of Pakistani independence (August 14, 1947) and contains a stylized illustration of the notation "Independence Day" written in Urdu surrounded by a crest of leaves and flowers as well as a geometric pattern. This stamp is listed at page 18 of Volume 5 of the *2010 Scott Standard Postage Stamp Catalogue* as catalogue number 696 A346. The catalogue lists the date of issue for the stamp as August 14, 1988. The envelope also contains a stamp with a value of three rupees that commemorates the seventy-fifth anniversary of the founding of Islamia College in Peshawar, Pakistan in 1913. The stamp contains a stylized illustration of front facade of Islamia College. This stamp is listed at page 18 of Volume 5 of the *2010 Scott Standard Postage Stamp Catalogue* as catalogue number 700 A348. The catalogue lists the date of issue for the stamp as December 22, 1988.

The fact that original envelopes postmarked May 5, 1986 and August 13, 1988, as well as a photocopied envelope postmarked December 13, 1986 all bear stamps that were not issued until after the date of these respective 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. 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

² Although this envelope is postmarked after the expiration of the requisite period on May 4, 1988, it is being cited because of the fact it contains stamps issued after the date of the August 13, 1988 postmark.

continuous residence in this country for the requisite period, and the credibility of all documentation submitted in support of such claim.

In addition, a review of the record reveals that the applicant previously filed a Form I-589, Request for Asylum in the United States, using the alias ' [REDACTED] ' with the Immigration and Naturalization Service or the Service (now United States Citizenship and Immigration Services or USCIS) on August 30, 1993. At question #18 of this Form I-589 asylum application, the applicant stated that he had been a member of the Pakistani Peoples Party since 1983. The applicant testified that with the change of Pakistan's government through elections in 1988, he was detained by the police and tortured as a result of his political affiliation. The applicant claimed that his house was attacked and ransacked in June 1989 and that he was forced to leave Pakistan shortly thereafter. With this Form I-589 asylum application, the applicant included a Form G-325A, Report of Biographic Information. On the Form G-325A biographic report, the applicant testified that he resided at [REDACTED] from his birth in January 1963 to June 1989. The record shows that the applicant signed both the Form I-589 asylum application and Form G-325A biographic report thereby certifying under the penalty of perjury that the information contained in such documents was true and correct.

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 July 8, 2011, 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 as well as the testimony he had provided on both the Form I-589 asylum application and the Form G-325A biographic report. The applicant was granted twenty-one days to provide evidence to overcome, fully and persuasively, these findings.

In response, the applicant submits a copy of a letter and printouts from the website at <http://www.pakistanphilately.com> showing the Pakistani postage stamps and their corresponding dates of issue as cited above that he sent to the manager of the philatelic bureau of the Lahore General Post Office in Pakistan. In his letter to this individual, the applicant inquired whether the stamps in question were available prior to the respective dates of issue listed in both the *2010 Scott Standard Postage Stamp Catalogue* and the website at <http://www.pakistanphilately.com>. The applicant provides a copy of a letter containing the printed letterhead "Pakistan Post Office," an illegible signature, and the stamp printed notation "Manager Philatelic Bureau Lahore G.P.O." The individual who signed the letter states the following in response to the applicant's inquiry regarding the stamps in question:

All the regular postal stamps & the stamps which are issued on some special occasion are released before date of their issuance.

It is not compulsory that those postal stamps should be released after their date of issuance.

Counsel asserts the following in regards to the letter:

The enclosed letter from the Pakistan post office attests to the fact that stamp[s] are released prior to their issue dates. It is not compulsory that a stamp is being released after their issue date.

It should be noted as well no objection was raised as to the many other stamps received by your offices.

However, the veracity of this letter is questionable it does not contain either the formal letterhead or seal of the Pakistan Postal Service, or a legible signature. Furthermore, every volume of each annual edition of the *Scott Standard Postage Stamp Catalogue* contains an introduction, which includes the heading, "Catalogue Listing Policy," describing the criteria and standards which must be met for a stamp to be listed in the catalogue, those cases in which a stamp will be listed with a footnote describing unusual circumstances relating to the issuing of that particular stamp, and the reasons why some stamps are not listed in the catalogue. Although the editors of the *Scott Standard Postage Stamp Catalogue* acknowledge that it is unable to determine the exact date of issue for some stamps, A review of the listings for stamps contained in the *Scott Standard Postage Stamp Catalogue* demonstrates that the editors list "No release date" for those stamps where no information is available relating to the official first day of issue, the year of release if the month of the official first day of issue cannot be determined, and year and month of release if the official first day of issue cannot be determined to the exact day. In this case, the *2010 Scott Standard Postage Stamp Catalogue* lists specific day, month, and year for the official first day of issue rather than a general year of issue date for each of the four different Pakistani stamps contained on the postmarked envelopes cited above and does not contain any footnote indicating such stamps were available prior to the official first date of issue. In addition, the editors of the *Scott Standard Postage Stamp Catalogue* correct and update any past inaccuracies or discrepancies by including a specific section at the end of each volume of the catalogue listing each and every addition, deletion, and change in information relating to any stamp in that volume that may have been printed in previous annual editions. In addition, a review of the website at <http://www.pakistanphilately.com> confirms the respective date of issue for each of the four different Pakistani stamps cited above as the same date of issue listed in Volume 5 of the *2010 Scott Standard Postage Stamp Catalogue* Volume 5. Furthermore, neither the applicant nor counsel nor the individual who drafted the letter as the "Manager Philatelic Bureau Lahore G.P.O." provides any independent evidence to corroborate the claim that the four Pakistani stamps in question were available prior to each stamp's respective date of issue. Finally,

counsel's claim that no objection was raised as to the many other stamps received by USCIS offices is without merit as USCIS offices have denied numerous legalization and LIFE Act applications and the AAO has dismissed corresponding appeals based upon an applicant's use such fraudulent postmarked envelopes.

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)). Without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner's burden of proof. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

In addition, neither the applicant nor counsel addressed the fact that the applicant provided detailed testimony in which he admitted that he resided in Pakistan until 1989 on both his Form I-589 asylum application and Form G-325A biographic report.

The existence of derogatory information that establishes the applicant used postmarked envelopes 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. Furthermore, the applicant himself provided testimony acknowledging that he resided in Pakistan from his date of birth in January 1963 to June 1989 before coming to the United States. 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.