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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

copy



FILE: [Redacted] Office: VERMONT SERVICE CENTER Date: 10/27/09

IN RE: Applicant: [Redacted]

APPLICATION: Application to Preserve Residence for Naturalization Purposes under section 316(b) of the Immigration and Nationality Act, 8 U.S.C. § 1427.

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Acting Director, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant seeks to preserve her residence for naturalization purposes under section 316(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1427(b), as a lawful permanent resident who is employed by a public international organization of which the United States is a member by treaty or statute.

The director determined that the applicant was not eligible for benefits under section 316(b) of the Act because she had been outside of the United States for a continuous period of more than one year after being lawfully admitted for permanent residence in the United States. The application was denied accordingly.

On appeal, the applicant asserts that her absence from the U.S. is due to her employment with the United Nations Economic Commission for Africa, based in Addis Ababa, Ethiopia. The applicant asserts that her employer is a public international organization of which the United States is a member by treaty or statute, and that she therefore qualifies for an exception to the one-year United States continuous residence requirement.

Section 316(b) of the Act provides, in pertinent part that:

[A]bsence from the United States for a continuous period of one year or more during the period for which continuous residence is required for admission to citizenship (whether preceding or subsequent to the filing of the application for naturalization) shall break the continuity of such residence **except that in the case of a person who has been physically present and residing in the United States after being lawfully admitted for permanent residence for an uninterrupted period of at least one year and who thereafter . . . is employed by a public international organization of which the United States is a member by treaty or statute and by which the alien was not employed until after being lawfully admitted for permanent residence**, no period of absence from the United States shall break the continuity of residence if-

(1) **prior to the beginning of such period of employment (whether such period begins before or after his departure from the United States), but prior to the expiration of one year of continuous absence from the United States**, the person has established to the satisfaction of the Attorney General [now Secretary, Homeland Security, "Secretary"] that his absence from the United States for such period is to be employed by a public international organization of which the United States is a member by treaty or statute and by which the alien was not employed until after being lawfully admitted for permanent residence; and

(2) such person proves to the satisfaction of the Attorney General [Secretary] that his absence from the United States for such period has been for such purpose.

(Emphasis added). The AAO notes that the United Nations qualifies as an international public organization, and that the United States is a member of the United Nations by treaty or statute. *See generally* <http://www.un.org>. The AAO notes further that the record contains several employment letters and employment identification documents establishing that the applicant is employed as a permanent staff

member for the United Nations Economic Commission for Africa, in Addis Ababa, Ethiopia. The employment evidence reflects, however, that the applicant has been continuously employed with the United Nations Economic Commission for Africa since July 1977. The AAO notes that the applicant became a lawful permanent resident of the United States on March 22, 1997, and the record contains no evidence to indicate that the applicant has resided in the U.S. for a continuous period of one year or more since obtaining her lawful permanent residence status. The AAO finds that the applicant has failed to establish that she was physically present and residing in the U.S. after being lawfully admitted for permanent residence for an uninterrupted period of at least one year and who thereafter became employed by a public international organization of which the U.S. is a member by treaty or statute. The appeal will be dismissed accordingly.

ORDER: The appeal is dismissed.