



U.S. Citizenship  
and Immigration  
Services

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[Redacted]

FILE: [Redacted]  
MSC 05 249 13166

Office: HARTFORD

Date: APR 26 2007

IN RE: Applicant: [Redacted]

APPLICATION: Application for Status as a Temporary Resident pursuant to Section 245A of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1255a

ON BEHALF OF APPLICANT:

[Redacted]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has been returned to the office that originally decided your case. If your appeal was sustained, or if your case was remanded for further action, you will be contacted. If your appeal was dismissed, 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.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application for temporary resident status pursuant to the terms of the settlement agreements reached in *Catholic Social Services, Inc., et al., v. Ridge, et al.*, CIV. NO. S-86-1343-LKK (E.D. Cal) January 23, 2004, and *Felicity Mary Newman, et al., v. United States Immigration and Citizenship Services, et al.*, CIV. NO. [REDACTED] (C.D. Cal), February 17, 2004, (CSS/Newman Settlement Agreements) was denied by the District Director, Boston, Massachusetts, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed

The district director determined that the applicant had not demonstrated entry into the United States prior to January 1, 1982 and continuous residence in the United States from that date to May 4, 1988, the expiration date of the application period for legalization under section 245a of the Immigration and Nationality Act, 8 U.S.C. § 1255a. Therefore, the district director concluded that the applicant was not eligible to adjust to temporary resident status pursuant to the terms of the CSS/Newman Settlement Agreements and denied the application.

On appeal, counsel stated that the applicant had additional evidence to establish that she entered the United States prior to January 1, 1982. Counsel requested 30 days to submit additional evidence in support of the appeal. To date, counsel has not submitted any evidence to supplement the appeal. Therefore, the record will be considered complete.

An alien applying for adjustment to temporary resident status must establish that he or she entered the United States before January 1, 1982, and that he or she has resided continuously in the United States in an unlawful status since such date and through the date the application is filed. *See* section 245A(a)(2)(A) of the Immigration and Nationality Act (Act) and 8 C.F.R. § 245a.2(b).

An alien applying for adjustment to temporary resident status must establish that he or she has been continuously physically present in the United States since November 6, 1986. *See* section 245A(a)(3) of the Act and 8 C.F.R. § 245a.2(b)(1).

For purposes of establishing residence and presence in accordance with the regulation at 8 C.F.R. § 245a.2(b), “until the date of filing” shall mean until the date the alien attempted to file a completed Form I-687 application and fee or was caused not to timely file, consistent with the class member definitions set forth in the CSS/Newman Settlement Agreements. *See* Paragraph 11, page 6 of the CSS Settlement Agreement and paragraph 11, page 10 of the Newman Settlement Agreement.

An alien applying for adjustment of status has the burden of proving 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 245A of the Act, and is otherwise eligible for adjustment of status. The inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. *See* 8 C.F.R. § 245a.2(d)(5).

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, 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.* 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.

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 (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 establish entry into the United States prior to January 1, 1982, and continuous residence in the United States from that date through the date she attempted to file a Form I-687 application with the Service in the original legalization application period from May 5, 1987 to May 4, 1988.

The applicant did not provide any information on the Form I-687, Application for Temporary Resident Status, regarding her claimed date of entry into the United States. At block #30 of the Form I-687, where applicants were asked to list all residences in the United States since first entry, the applicant listed addresses in Hartford, Connecticut, and New Britain, Connecticut, but she did not provide the inclusive dates of residence at either of these address. At block #33, where applicants are instructed to list all employment since initial entry into the United States, the applicant indicated that she was self-employed, but she did not provide any dates of employment. In an attempt to establish her claim of entry into the United States prior to January 1, 1982, and continuous residence in the United States since that date, the applicant submitted an affidavit dated January 23, 2006, from [REDACTED] stating that she met the applicant and her mother, Mrs. [REDACTED], in Houston, Texas, several times between 1980 and 1989.

The applicant appeared for her legalization interview at the Hartford, Connecticut, sub-office on January 24, 2006. According to the notes of the interviewing officer, the applicant stated that

she first entered the United States from Mexico without inspection on September 17, 1980, and has not left the United States since that date.

The district director denied the application on April 21, 2006, because the applicant failed to establish entry into the United States prior to January 1, 1982 and continuous residence in the United States since that date.

On appeal, counsel repeated the applicant's claim that she has lived in the United States since prior to January 1, 1982, and had more evidence to corroborate her claim. Counsel requested 30 days to submit additional evidence in support of the appeal. To date, counsel has not submitted any evidence in support of the appeal.

The applicant has not submitted any independent evidence to corroborate her claim of entry into the United States prior to January 1, 1982. Simply going on record without supporting documentary evidence is not sufficient for meeting the burden of proof in these proceedings. *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972).

The applicant has submitted only one affidavit to corroborate her claim of continuous residence in the United States from prior to January 1, 1982 to May 4, 1988. Ms. [REDACTED] stated in her affidavit that she met the applicant and her mother in Houston, Texas, several times between 1980 and 1989, but she does not provide any information regarding the basis of her acquaintance with the applicant, the addresses where the applicant resided during that period, or any other verifiable information. It is noted that the applicant did not list a residence in Houston, Texas, at block #30 on the Form I-687 where applicant are instructed to list all residences since initial entry into the United States. She only listed residences in Hartford and New Britain, Connecticut.

Furthermore, the applicant told the interviewing officer at her legalization interview that she has not left the United States since her initial entry in 1980. She did not list any absences outside the United States at Block 32 of the Form I-687, where applicants are instructed to list all absences outside the United States since entry; however, she stated at block #16 of the Form I-687, where applicant are instructed to list their last entry into the United States, that she last entered the United States on August 10, 2003, as a nonimmigrant B-2 visitor. The applicant has not provided any explanation for these contradictions in her claimed dates of residence in the United States during the requisite period.

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. Further, it is incumbent on 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 lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582. (Comm. 1988).

The absence of sufficiently detailed supporting documentation that provides testimony to corroborate the applicant's claim of continuous residence for the **entire** requisite period seriously detracts from the credibility of this claim. Pursuant to 8 C.F.R. § 245a.2(d)(5), 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 her burden of proof in establishing that she has resided in the United States since prior to January 1, 1982 by a preponderance of the evidence as required under both 8 C.F.R. § 245a.2(d)(5) and *Matter of E- M-*, 20 I&N Dec. at 77.

Given the applicant's reliance upon documents with minimal probative value, it is concluded that she has failed to establish continuous residence in an unlawful status in the United States from prior to January 1, 1982 as required under section 245A(a)(2) of the Act. The applicant is, therefore, ineligible for temporary resident status under section 245A of the Act on this basis.

**ORDER:** The appeal is dismissed. This decision constitutes a final notice of ineligibility.