



U.S. Citizenship  
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FILE: [REDACTED]  
MSC 04 349 10904

Office: LOS ANGELES

Date: **AUG 13 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: SELF-REPRESENTED

**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. 87-4757-WDK (C.D. Cal) February 17, 2004, (CSS/Newman Settlement Agreements) was denied by the District Director, Los Angeles, California, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The district director determined the applicant had not demonstrated that she had continuously resided in the United States in an unlawful status since before January 1, 1982 through the date that she attempted to file a Form I-687, Application for Status as a Temporary Resident, with the Immigration and Naturalization Service or the Service (now Citizenship and Immigration Services or CIS) in the original legalization application period of May 5, 1987 to May 4, 1988. Therefore, the district director determined 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, the applicant states that she would like to have the opportunity to be legal in this country because she has three children who were born in this country and most of her family is here. She submits additional evidence in support of her appeal.

An applicant for temporary resident status 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 the date the application is filed. Section 245A(a)(2) of the Immigration and Nationality Act (Act), 8 U.S.C. § 1255a(a)(2).

An applicant 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. Section 245A(a)(3) of the Act, 8 U.S.C. § 1255a(a)(3).

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. CSS Settlement Agreement paragraph 11 at page 6; Newman Settlement Agreement paragraph 11 at page 10.

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 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.

The issue in this proceeding is whether the applicant has furnished sufficient credible evidence to demonstrate that she resided in the United States from prior to January 1, 1982 through the date she attempted to file a Form I-687 application with the Service in the original legalization application period of May 5, 1987 to May 4, 1988. Here, the submitted evidence is not relevant, probative, and credible.

The record shows that the applicant submitted a Form I-687 application and a Form I-687 Supplement, CSS/Newman Class Membership Worksheet, to CIS on September 13, 2004. At part #30 of the Form I-687 application where applicants were asked to list all residences in the United States since first entry, the applicant indicated that she resided at [REDACTED] [REDACTED] Huntington Beach, California” from December 1981 to December 1986 and at [REDACTED] [REDACTED] Fountain Valley, California” from January 1987 to June 1990

In an attempt to establish continuous unlawful residence in this country since prior to January 1, 1982, the applicant submitted fill-in-the-blank affidavits dated in July and August 1990 from [REDACTED] [REDACTED] and [REDACTED]. These affiants all stated that they had personal knowledge that the applicant had resided in Orange County, California, since December 1981, but none of the affiants provided any specific, detailed, and verifiable testimony, such as the applicant’s address(es) of residence in this country, to corroborate the applicant’s claim of residence in the United States for that period.

The applicant included affidavits dated September 25, 1990 and June 10, 2005, from [REDACTED] [REDACTED] stated in both affidavits that the applicant worked for her family as a babysitter and housekeeper from January 2, 1987 to June 20, 1989.

The applicant also included affidavits dated September 27, 1990 and June 10, 2005, from [REDACTED] [REDACTED] stated in both affidavits that the applicant had worked for her family as a babysitter and housekeeper from December 20, 1981 until December 28, 1986.

In response to a request for additional evidence dated June 15, 2005, the applicant submitted a letter dated July 3, 2005, from [REDACTED]. [REDACTED] stated that he had known the applicant since 1981. However, [REDACTED] failed to provide any specific, detailed, and verifiable information such as the applicant's address(es) of residence in this country, or the frequency of his contact with the applicant, to corroborate the applicant's claim of residence in the United States during the requisite period.

The applicant also submitted an affidavit dated June 30, 2005, from [REDACTED] [REDACTED] stated that he had known the applicant since 1981 when she was working for [REDACTED] [REDACTED] in Huntington Beach, California. However, [REDACTED] did not provide any information as to the frequency of his contact with the applicant.

The applicant included an affidavit dated June 30, 2005, from [REDACTED] [REDACTED] stated that he had known the applicant for 24 years. However, [REDACTED] failed to provide any specific, detailed, and verifiable information such as the applicant's addresses in the United States during the requisite period, the basis of his acquaintance with the applicant, or the frequency of his contact with the applicant.

The district director denied the application on March 14, 2006, because the applicant failed to submit sufficient evidence to corroborate her claim of continuous residence in the United States during the requisite period. The district director specifically noted that the applicant failed to provide proof that her affiants themselves were residing in the United States during the requisite period.

The applicant, on appeal, provided photocopies of various documents reflecting the residence of affiants [REDACTED] and [REDACTED] in the United States during the period from January 1, 1982 to May 4, 1988. She did not provide any additional evidence to corroborate her claim that she resided continuously in the United States during the requisite period.

In summary, the applicant has not provided any contemporaneous evidence of residence in the United States relating to the 1981-88 period. The affidavits she has submitted lack sufficient detail and verifiable information to corroborate her claim of continuous residence in the United States during the requisite period.

The absence of sufficiently detailed supporting documentation 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. 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 through the date she attempted to file a Form I-687 application as required under both 8 C.F.R. § 245a.2(d)(5) and *Matter of E- M--*, *supra*. 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.