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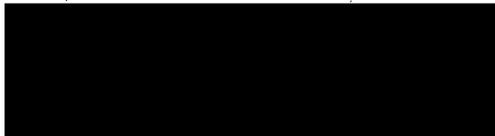
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U.S. Citizenship  
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FILE: [REDACTED]  
MSC 06 069 11465

Office: LOS ANGELES

Date: DEC 06 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. The decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant submitted a Form I-687, Application for Status as a Temporary Resident under Section 245A of the Immigration and Nationality Act (Act), and a Form I-687 Supplement, CSS/Newman Class Membership Worksheet. The director determined that the applicant had not established by a preponderance of the evidence that he had continuously resided in the United States in an unlawful status for the duration of the requisite period. The director observed that the applicant had not submitted any documentary evidence to establish his continuous residence in the United States with his application, or during his interview with a Citizenship and Immigration Services (CIS) officer on July 10, 2006. The director denied the application, finding that the applicant had not met his burden of proof and was, therefore, not eligible to adjust to temporary resident status pursuant to the terms of the CSS/Newman Settlement Agreements.

On appeal, the applicant asserts that his parents did attempt to file a completed Form I-687 application "sometime in 1987." The application states that his short absences from the United States in 1986 and 1988 should be considered "brief, casual and innocent" as he was under his parents' direct guidance, and they made the decision to travel to the Philippines on those occasions. The applicant requests that the district director's decision be reversed. The applicant does not submit any additional evidence on 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 Act, 8 U.S.C. § 1255a(a)(2). The applicant must also 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). The regulations clarify that the applicant must have been physically present in the United States from November 6, 1986 until the date of filing the application. 8 C.F.R. § 245a.2(b)(1).

For purposes of establishing residence and physical presence under the CSS/Newman Settlement Agreements, the term "until the date of filing" in 8 C.F.R. § 245a.2(b)(1) means until the date the applicant attempted to file a completed Form I-687 application and fee or was caused not to timely file during the original legalization application period of May 5, 1987 to May 4, 1988. CSS Settlement Agreement paragraph 11 at page 6; Newman Settlement Agreement paragraph 11 at page 10.

The applicant has the burden of proving by a preponderance of the evidence that he or she has resided in the United States for the requisite period, 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. 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 he resided in the United States for the duration of the requisite period. Here, the submitted evidence is not relevant, probative, and credible.

The record shows that the applicant submitted a Form I-687 application and Supplement to CIS on December 8, 2005. 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 showed his first address in the United States as "Renton Street" in Carson, California from 1980 until 1983. He stated that he subsequently resided at "Figueroa Street" in Gardena, California from 1984 until 1990. At part #33, the applicant showed his first employment in the United States to be at "Isla Buffet" in Gardena, California, from 1989 to 1990.

As noted above, applicant has the burden of proving by a preponderance of the evidence that he has resided in the United States for the requisite period. 8 C.F.R. § 245a.2(d)(5). To meet his burden of proof, an applicant must provide evidence of eligibility apart from his own testimony. 8 C.F.R. § 245a.2(d)(6). Pursuant to the regulation at 8 C.F.R. § 245a.2(d)(3), documentation to establish an applicant's continuous residence in the United States may include, but is not limited to: past employment records; utility bills; school records; hospital or medical records; attestations by churches, unions or other organizations; money order receipts; passport entries; birth certificates of children; bank books; letters or correspondence involving the applicant; social security card; selective service card; automobile receipts and registration; deeds, mortgages or contracts; tax receipts; and insurance policies, receipts or letters. An applicant may also submit any other relevant document pursuant to 8 C.F.R. § 245a.2(d)(3)(vi)(L).

In support of his application, the applicant provided evidence of his identity. However, he submitted no documentary evidence to establish continuous unlawful residence in this country since prior to January 1, 1982 until the date on which he claims that his parents attempted to file a completed legalization application.

The applicant was interviewed by a CIS officer on July 10, 2006. Prior to his interview, the applicant was properly notified that documentation would be requested from him to establish that he entered the United States before January 1, 1982, and to establish that he continuously resided in the United States in an unlawful status from such date through the date on which he or his parents attempted to file a legalization application.

The applicant presented no documentary evidence at the time of his interview and indicated that he had no additional evidence to submit. When interviewed, the applicant stated that he entered the United States without inspection with his mother and father through New York in 1980, when the applicant was 12 years old. The applicant stated that he attended Carson Elementary School in Carson, California for a few months in 1981 or 1982. He claimed to have traveled to the Philippines in 1986 and in 1988, each time for two to three weeks. He stated that he did not know the date on which his parents attempted to file a legalization application. The applicant noted that he was first paid by check in 1989, but stated that he did not file an income tax return until 2002.

In denying the application the director noted that the applicant failed to submit any evidence of his continuous residence for the requisite periods in support of his application for temporary residence. Therefore the director determined that the applicant had failed to meet his burden of proof by a preponderance of the evidence that he resided continuously in the United States for the requisite period.

On appeal, the applicant states that his parents did attempt to file a legalization application with an INS office in 1987, and were informed that they were not eligible to file. The applicant states that his absences from the United States qualify as brief, casual and innocent absences because he traveled with his parents and was under their guidance. The applicant does not directly address the ground for the denial of the petition, which was the applicant's failure to submit any documentary evidence to corroborate his claimed period of continuous unlawful residence in the United States. The applicant has not furnished any documentary evidence in support of the appeal.

In summary, the applicant has not provided contemporaneous evidence of residence in the United States relating to the requisite period, and has in fact offered nothing other than his own testimony. As noted above, to meet his or her burden of proof, an applicant must provide evidence of eligibility, apart from his or her own testimony. 8 C.F.R. § 245a.2(d)(6)

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 sole reliance upon his own testimony, it is concluded that he has failed to establish continuous residence in an unlawful status in the United States for the requisite period 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.