



U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE: [REDACTED] Office: New York
MSC 04 350 20753

L1

Date: FEB 01 2007

IN RE: Applicant: [REDACTED]

PETITION: 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. All documents have been returned to the office that originally decided your case. If your appeal was sustained, or if the matter 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, New York, New York, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director determined that the applicant had not demonstrated that he had continuously resided in the United States in an unlawful status since before January 1, 1982 through the date that he 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 between May 5, 1987 to May 4, 1988. 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, the applicant reiterates his claim of residence in this country since January 1981 and asserts that he has submitted sufficient documentation in support of such claim. The applicant includes copies of previously submitted documentation in support of his appeal.

An applicant for temporary residence 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. *See* section 245A(a)(2) of the Immigration and Nationality Act (Act), 8 U.S.C. § 1255a(a)(2) 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).

8 C.F.R. § 245a.2(d)(3)(v) states that attestations by churches, unions, or other organizations to the applicant's residence by letter must: identify applicant by name; be signed by an official (whose title is shown); show inclusive dates of membership; state the address where applicant resided during membership period; include the seal of the organization impressed on the letter or the letterhead of the organization, if the organization has letterhead stationery; establish how the author knows the applicant; and, establish the origin of the information being attested to.

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 continuous residence in the United States from prior to January 1, 1982 through the date he 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. 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 15, 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 listed [REDACTED] from January 25, 1981 to August 6, 1986, and [REDACTED] August 7, 1986 through at least the date of the termination of the original legalization application period on May 4, 1988. Furthermore, the applicant failed to list any information at part #31 of the Form I-687 application where applicants were asked to list all affiliations or associations with clubs, organizations, churches, unions, business, etc. Additionally, at part #33 of the Form I-687 application where applicants were asked to list all employment in the United States dating back to January 1, 1982, the applicant listed employment as a day laborer for Gene Moffett General Contracting from January 1, 1981 to 1984, as well as employment as a helper for Adami Restoration Inc., from January 1985 to December 1985.

In an attempt to establish continuous unlawful residence in this country since prior to January 1, 1982, the applicant submitted an employment affidavit signed by [REDACTED] stated that he employed the applicant as a day laborer on a part-time basis for approximately twenty-five days per year from January 1981 to 1984. [REDACTED] declared that the applicant's address during his period of employment with this enterprise was [REDACTED]. While Mr. [REDACTED]'s testimony matches the applicant's regarding the number and street name where the applicant resided from January 1981 to 1984, [REDACTED] provided an apartment number, 3B, which conflicts with that apartment number, 2nd FL. #2B, listed by the applicant as his residence at part #30 of the Form I-687 application. In addition, [REDACTED] failed to provide any testimony relating to the applicant's residence in the United States in the period from 1985 to the date of the termination of the original legalization application period on May 4, 1988.

The applicant provided an employment affidavit signed by [REDACTED] president of [REDACTED] [REDACTED] noted that he employed the applicant forty-five to sixty days per year from January 1985 to December 1985 while the applicant resided at [REDACTED] while he resided at [REDACTED]. [REDACTED] testimony that the applicant worked for him from 1986 to 1990 is in direct conflict with the applicant's testimony that he did not work for this enterprise after December 1985 at part #33 of the Form I-687 application. Furthermore, [REDACTED] testimony that the applicant resided at [REDACTED] directly contradicted the applicant's testimony at part #30 of the Form I-687 application that he continued to reside at this address to August 6, 1986. In addition, [REDACTED] failed to provide the specific apartment number that the applicant occupied while residing at this address. Moreover, [REDACTED] failed to attest to the applicant's residence in the United States in the period from prior to January 1, 1982 to December 1984.

The applicant also included an affidavit signed by [REDACTED] who declared that he had personal knowledge that the applicant resided in [REDACTED] because the applicant is his best friend and they met every morning since November 1981. Although [REDACTED] attested to the applicant's residence in this country since November 1981, he failed to provide any relevant and verifiable testimony, such as the applicant's complete address(es) of residence in this country, to corroborate the applicant's claim of residence in the United States for the requisite period.

The applicant provided an affidavit that is signed by [REDACTED] [REDACTED] noted that he had personal knowledge that the applicant resided in "Brooklyn, New York 11220," because the applicant is a close friend and they worked together every month since March 1981. However, [REDACTED] did not provide any specific and direct information, such as the places he and the applicant purportedly worked together or the applicant's complete address(es) of residence in this country, that would support the applicant's claim of residence in this country for the period in question.

The applicant submitted an affidavit signed by [REDACTED], who stated that he had personal knowledge that the applicant resided in "Brooklyn, New York 11220," because the applicant is a close friend and they met every week since September 1981. While [REDACTED] attested to the applicant's residence in this country since September of 1981, he failed to provide any verifiable

testimony that would tend to corroborate the applicant's claim of residence in the United States since prior to January 1, 1982.

The applicant included a letter dated August 19, 2004 that is signed by [REDACTED] and contains the letterhead of the Islamic Council of America Inc., [REDACTED] in New York, New York. In his letter, [REDACTED] from 1982 to 1986 and during that period he saw the applicant attending prayers and other Islamic holidays at the Masjid. Although [REDACTED] provided the applicant's address as of the date the letter was executed, he failed to include any of the applicant's addresses of residence during the entire period that the applicant was a member of this religious organization as required under 8 C.F.R. § 245a.2(d)(3)(v). While [REDACTED] did indicate that he was Iman [REDACTED] from 1982 to 1986, he failed to indicate that he is currently an official or list his current title with this religious institution as also required under 8 C.F.R. § 245a.2(d)(3)(v). Additionally, [REDACTED] failed to provide any testimony that the applicant resided in the United States prior to January 1, 1982. Moreover, it must be noted that the applicant failed to provide any explanation as to why he did not list his membership in the Islamic Council of America Inc., [REDACTED] at part #31 of the Form I-687 application where applicants were asked to list all affiliations or associations with clubs, organizations, churches, unions, business, etc.

The applicant provided an affidavit signed by [REDACTED] who noted that he lived with the applicant at [REDACTED] from August 7, 1986 to October 12, 1990. However, [REDACTED] failed to attest to the applicant's residence in the United States in the period from prior to January 1, 1982 to August 6, 1986.

The applicant submitted an affidavit that is signed by [REDACTED] stated that he lived with the applicant at [REDACTED] from January 25, 1981 to August 6, 1986. However, [REDACTED] failed to provide any testimony relating to the applicant's residence in this country after August 6, 1986.

The record shows that the applicant was subsequently interviewed relating to his Form I-687 application at CIS' District Office in New York, New York on March 7, 2006. The notes of the interviewing officer demonstrate that the applicant replied "No doctor, no dentist," when asked if he had ever seen a doctor during the period in question. The notes further reveal that the applicant was asked to name the Iman of [REDACTED] from 1982 to 1986. In response, the applicant stated that the name of the [REDACTED] in this period was "Hafez Zulfiger." The applicant's testimony that the name of the Iman at this religious organization was "[REDACTED]" directly contradicted Julkifl Choudhury's testimony testified that he was [REDACTED] from 1982 to 1986.

The applicant also submitted an affidavit that is signed by [REDACTED] at the time of his interview. Mr. Siddique declared that the applicant was his nephew and the applicant came to visit him in Canada from May 11, 1987 to June 9, 1987. [REDACTED] testified that the applicant was residing at [REDACTED] New York at the time of his visit. Although [REDACTED] attested to the applicant's address of residence in this country in that period from May 11, 1987 to June 9, 1987, he failed to provide any testimony relating to the applicant's residence in the United States either before or after the dates of this trip. In addition, the probative value of the testimony contained

in the affidavit signed by [REDACTED] s limited in that [REDACTED] has acknowledged that he is the applicant's uncle, a family member who must be viewed as having an interest in the outcome of proceedings, rather than an independent and disinterested third party.

In the notice of intent to deny issued on March 10, 2006, the district director questioned the veracity of the applicant's claimed residence in the United States since prior to January 1, 1982. Specifically, the district director noted the conflicts and contradictions cited above, as well as discussing the fact that a review of the New York State Division of Corporations' computer records demonstrated that [REDACTED] initially filed articles of incorporation as a domestic business corporation in New York on May 29, 1998. The applicant was granted thirty days to respond to the notice and submit additional evidence in support of his claim of residence in this country since prior to January 1, 1982.

In response, the applicant submitted a statement in which he declared that an Iman was referred to as Hafez or professor as a sign of respect in Islamic culture in an attempt to explain why he made an error in naming the [REDACTED] from 1982 to 1986 at his interview on March 7, 2006. However, the applicant's explanation is insufficient in resolving the fact that the applicant stated that the name of the [REDACTED] from 1982 to 1986 was '[REDACTED]' rather than [REDACTED] Choudhury. The name, [REDACTED] is distinct and cannot be confused with the response provided by the applicant, [REDACTED], when he was asked to name the [REDACTED] from 1982 to 1986 at his interview on March 7, 2006.

The applicant provided an affidavit that is signed by [REDACTED] and dated March 29, 2006. It is noted that [REDACTED] previous affidavit was included with the initial filing of the applicant's Form I-687 application. [REDACTED] indicated that he first met the applicant in a store at Church and McDonald Avenues in Brooklyn, New York in March 1981. [REDACTED] attested to the applicant's continuous residence in this country from January 1982 through May 4, 1988 and stated that he and the applicant are very good friends and they sometimes worked together. However, [REDACTED] did not provide any specific and direct information, such as the places he and the applicant purportedly worked together or the applicant's address(es) of residence in this country, that would support the applicant's claim of residence in this country for the period in question.

The applicant included an affidavit signed by [REDACTED] whose prior affidavit was submitted with the filing of the applicant's Form I-687 application. [REDACTED] declared that he first met the applicant in September 1981 in the Harlem neighborhood of New York, New York when the applicant came to him to inquire about a job. [REDACTED] testified that the applicant continuously resided in the United States from January 1982 through May 4, 1988 and noted that he and the applicant are good friends. Although [REDACTED] attested to the applicant's residence in this country during the requisite period, he failed to provide any verifiable testimony that would tend to corroborate the applicant's claim of residence in the United States since prior to January 1, 1982.

The applicant submitted an affidavit signed by Angelo Heyliger. It is noted that [REDACTED] previous affidavit was included with the initial filing of the applicant's Form I-687 application. [REDACTED] testified that he first met the applicant in the subway at [REDACTED] New York, New York when the applicant asked for directions to a particular address in November 1981. [REDACTED] attested to the applicant's continuous residence in this country from January 1982

through May 4, 1988 and stated that he and the applicant are very good friends exchanged phone numbers and remain in contact. While [REDACTED] attested to the applicant's residence in this country during the period in question, he failed to provide any relevant 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 from prior to January 1, 1982 through at least the date of the termination of the original legalization application period on May 4, 1988.

The applicant provided an affidavit signed by [REDACTED] whose prior affidavit was submitted with the filing of the applicant's Form I-687 application. [REDACTED] noted that he lived with the applicant at [REDACTED] from September 1986 to October 1990. However, in his previous affidavit Mr. Ullah testified that the applicant began residing with him on August 7, 1986 rather than September 1986. Neither the applicant nor [REDACTED] provided any explanation for this revision in [REDACTED]'s testimony. Additionally, [REDACTED] failed to attest to the applicant's residence in the United States in the period from prior to January 1, 1982 to August 6, 1986.

The applicant included an affidavit that is signed by [REDACTED]. It is noted that [REDACTED] previous affidavit was included with the initial filing of the applicant's Form I-687 application. [REDACTED] stated that he lived with the applicant at [REDACTED] from February 1982 through August 1986. [REDACTED] noted that the applicant was boarding and lodging at this address since the end of January 1981 with [REDACTED]. However, in his prior affidavit [REDACTED] testified that he and the applicant resided at [REDACTED] beginning January 25, 1981. Neither the applicant nor [REDACTED] offered any explanation for the conflicts in [REDACTED]'s testimony. Furthermore, [REDACTED] failed to provide any testimony relating to the applicant's residence in this country after August 1986.

The applicant provided an affidavit signed by [REDACTED] who reiterated the claim put forth in his original employment affidavit that he employed the applicant on a part-time basis starting in January of 1985. [REDACTED] acknowledged that his company [REDACTED], had been registered as a domestic business corporation in New York State beginning in June 1998, but that he had been doing freelance restoration and construction since 1984. [REDACTED] declared that he was also supervising his father's construction business during this period. However, [REDACTED] failed to provide any evidence to corroborate the claims put forth in this most recent affidavit. 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)).

The applicant provided an employment affidavit signed by [REDACTED] president of [REDACTED] which bears the letterhead of this organization. [REDACTED] noted that he first met the applicant in the middle of April of 1981 when the applicant applied for and was offered a cleaning job for two hours every Sunday. [REDACTED] stated that the applicant worked in this job for a couple of months. [REDACTED] declared that he and the applicant developed a personal relationship and continued to maintain contact. Mr. Morrison provided the applicant's most current address as of the date the letter was executed on February 24, 2006. While [REDACTED] attested to the applicant's residence in this country since April 1981, he failed to provide any relevant 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 from prior to January 1, 1982. In addition, it must be noted that the applicant did not list any employment for the [REDACTED] Form I-687 application where applicants were asked to list all employment in the United States dating back to January 1, 1982. The applicant failed to advance any explanation as to why this claim of employment was not listed on his Form I-687 application.

With his response, the applicant submitted photocopies of a variety of documents including contemporaneous documentation and an affidavit ranging in date from June 1981 to February 1988 that were not included with filing of the applicant's Form I-687 application on September 15, 2004. The fact that the applicant only came forth with such documentation after having been informed in the notice of intent to deny that the evidence of residence he submitted with his Form I-687 application was not sufficient to demonstrate that he continuously resided in the United States since prior to January 1, 1982 brings into question the origin and credibility of such documents. Further, the applicant did not explain why, if this documentation had been in his possession since the 1980's, it had not been submitted along with his Form I-687 application, as applicants were instructed to provide qualifying evidence with their applications.

The applicant submitted photocopies of two separate handwritten receipts for rent paid by the applicant [REDACTED] for June 1981 and December 1981 for apartment 2-B at [REDACTED] New York. While the record contains testimony from [REDACTED] that he, the applicant, [REDACTED] all resided together in this apartment at this address, the record contains no evidence or testimony demonstrating that [REDACTED] was the landlord or owner of these premises. The applicant failed to advance any explanation as to why he paid rent to a tenant with whom he was sharing an apartment rather than the owner or landlord of the building.

The applicant provided a photocopy of a receipt for a mattress from A&A Brooklyn Bedding dated August 10, 1982. The receipt listed the applicant's address as [REDACTED] and his phone number as "[REDACTED]"

The applicant included photocopies of two separate postmarked envelopes with cancellation marks of October 24, 1982 and an indeterminate date in 1987, respectively. The addresses attributed to the applicant on these envelopes corresponded to the addresses of residence listed by the applicant for these dates on the Form I-687 application.

The applicant submitted a photocopy of a letter that is signed by [REDACTED] who stated applicant was his patient and he was initially examined on May 15, 1982. [REDACTED] declared that he subsequently examined the applicant on May 14, 1983, January 11, 1984, August 26, 1985, December 16, 1986, and April 2, 1987. As noted above, the applicant testified that he had not seen either a doctor or dentist while residing in the United States in that period from January 1, 1982 to May 4, 1988 at his interview on March 7, 2006. The applicant did not put forth any explanation for [REDACTED] contradictory testimony that he had examined the applicant on seven occasions during the period in question.

The applicant provided a photocopy of an affidavit dated January 27, 1988 that is signed by [REDACTED] the same individual who provided two separate affidavits in support of the applicant's claim of

residence. [REDACTED] listed the applicant's address as of the date this affidavit was executed as "[REDACTED] [REDACTED] indicated that he first met the applicant in March of 1981 at Church and McDonald Avenues in Brooklyn, New York. [REDACTED] declared that he and the applicant saw each other at least once each month since their first meeting because they subsequently worked together and attended festivals, associational gatherings, picnics, and birthdays. Although the address provided by [REDACTED] matched the address where applicant claimed he was residing on this date, he still failed to provide the name of the employer where he and the applicant purportedly worked together in the requisite period.

The applicant included photocopies of a Form I-687 application and a corresponding customer receipt for a United States Postal Service money order that are both dated February 28, 1988. However, a review of both Service and CIS computer records reveals no indication that the applicant ever filed these documents with the Service or CIS prior to his response to the notice of intent to deny. While these documents may serve as evidence that the applicant had been front-desked (informed that he was not eligible for temporary residence) when he attempted to file a legalization application on or about February 28, 1988, the documents cannot serve as evidence of the applicant's residence in this country prior to the date of their execution.

The district director determined that the applicant had failed to submit sufficient evidence establishing his continuous residence in this country since prior to January 1, 1982, and, therefore, denied the application on July 25, 2006. In the notice of decision, the district director noted those discrepancies and deficiencies cited above in the applicant's response to the notice of intent to deny and the documentation submitted in support of that response. In addition, the district director noted it would have been impossible for the applicant to possess a telephone number with an area code of 718 while he was purportedly residing in Brooklyn, New York as reflected on the photocopied receipt from A&A Brooklyn Bedding dated August 10, 1982 because the 718 area code was not established in New York City until 1984. A review of the Internet site, <http://areacode-info.com>, confirms that the 718 area code was created for use in three of New York City's five counties, Kings (also known as Brooklyn), Queens, and Staten Island, beginning on September 2, 1984. Prior to such date all five counties of New York City utilized the 212 area code with two counties, Manhattan and the Bronx, permanently retaining the 212 area code after December 31, 1984.

On appeal, the applicant reiterates his claim of residence in this country since January 1981 and asserts that he has submitted sufficient documentation in support of such claim. The applicant states that he did not have a phone listed in his name on the date the receipt from A&A Brooklyn Bedding was executed on August 10, 1982 and he believes he himself may have subsequently written this phone number on the receipt. This explanation is not sufficient in that the applicant has failed to advance any logical reason as to why he would alter and despoil contemporaneous evidence of his purported residence by subsequently entering a phone number that he possessed at some later date. Further, the applicant failed to provide any independent evidence, such as the original receipt or proof that he ever possessed the telephone number listed on the receipt, that would tend to corroborate this explanation. 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 (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190).

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. 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 (BIA 1988).

The absence of sufficiently detailed supporting documentation and the existence of conflicting evidence that contradicts critical elements of the applicant's claim of residence seriously undermines the credibility of the supporting documents, as well as the credibility of the applicant's claim of residence in this country for the requisite period. Pursuant to 8 C.F.R. § 245a.2(d)(3), 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 since prior to January 1, 1982 to May 4, 1988 by a preponderance of the evidence as required under both 8 C.F.R. § 245a.2(d)(3) and *Matter of E- M-*, 20 I&N Dec. 77 (Comm. 1989).

Given the applicant's reliance upon supporting documents with minimal 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 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.