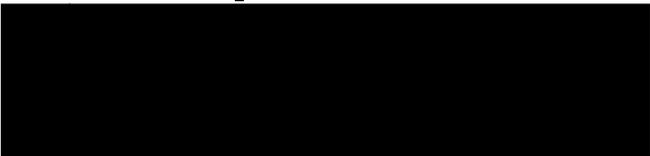




U.S. Citizenship  
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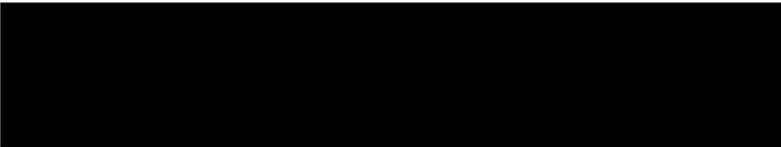
Date: JUL 11 2007

IN RE: Applicant:



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:



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, Newark, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The 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. The director noted that the applicant failed to respond to the Notice of Intent to Deny (NOID), dated February 14, 2006. Therefore, the 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. The director in part adjudicated the application pursuant to the Legal Immigration Family Equity (LIFE) Act Legalization provisions under 8 C.F.R. § 245a.15. The director's application of the regulations under the LIFE Act Legalization provisions was in error; nonetheless, the AAO affirms the director's decision.

On appeal, counsel for the applicant maintains that on March 16, 2006, he hand delivered the response to the NOID, which contained additional corroborating evidence. Counsel provided a copy of the submitted evidence and cover letter date stamped by the Newark District Office.

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. 8 C.F.R. § 245a.2(d)(5).

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 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.

The record shows that the applicant filed a Form I-687, Application for Status as a Temporary Resident, and a Form I-687 Supplement, CSS/Newman Class Membership Worksheet, with CIS on August 11, 2005. Part 30 of this application requests the applicant to list all of her residences in the United States since her entry. The applicant responded that she resided at [REDACTED] Apt. 1, Passaic, New Jersey from November 1981 until July 1988. Part 33 of this application requests the applicant to list all of her employment in the United States since her entry. The applicant responded at that she was employed as a babysitter with [REDACTED] from November 1981 until December 1984 and as a machine operator with Corporate Knitting from March 1985 until December 1993. Although the applicant claims that she has continuously resided in the United States since November 1981, she has failed to corroborate her claim with credible supporting documentation.

Counsel for the applicant asserts that the evidence of the applicant's presence in the United States prior to January 1, 1982 was destroyed in a fire. The applicant's Form I-687 provides that she was residing at [REDACTED] Passaic, New Jersey from November 1981 until July 1988. The applicant's record contains a notarized letter from [REDACTED] dated April 18, 1991. This letter provides, "my correct and legal address is [REDACTED], Passaic, NJ and

that [REDACTED] and [REDACTED] her husband, lived with me at the above stated address since NOVEMBER OF 1981 when they arrived from Mexico. They moved from my house in JULY 1<sup>st</sup>, 1988 to their present address . . ." The applicant's file contains copies of a Fire Department and Police Department Record, dated December 25, 1985. The copies of these records are somewhat illegible. The police department record provides, "upon arrival found fire blowing out 1<sup>st</sup> floor apt. front extending vertically through siding." The fire department record states: Owner, [REDACTED] 2 Fl. Tenant, [REDACTED] 1 Fl. This information indicates that [REDACTED] is the owner of the apartment that had the fire, but resided on the second floor, while the tenant, [REDACTED] resided in the actual apartment that had the fire on the first floor. The applicant's last name is neither [REDACTED] nor [REDACTED]. This information draws into question the applicant's assertion that she lost her documents in a fire on December 25, 1985 while residing with [REDACTED].

Regardless of whether the applicant's documents were destroyed in a fire, the applicant must still show corroborating evidence of her residence in the United States during the requisite period. Pursuant to 8 C.F.R. § 245a.2(d)(6), "[t]o meet his or her burden of proof, an applicant must provide evidence of eligibility apart from his or her own testimony." 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). This broad provision allows the applicant to submit credible affidavits, letters or declarations from persons who knew her when she resided in the United States during the requisite period.

The applicant's record contains numerous statements, receipts, invoices, payroll stubs and copies of tax returns, dated during and outside of the requisite period. Since 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 during the original legalization application period of May 5, 1987 to May 4, 1988, this decision will focus only on documentation attempting to corroborate the applicant's residence during the requisite period. Pursuant to 8 C.F.R. § 245a.2(d)(6), "[t]he sufficiency of all evidence produced by the applicant will be judged according to its probative value and credibility." Here, the submitted evidence is not relevant, probative, and credible.

The applicant submitted two letters from [REDACTED] dated February 25, 2006 and January 4, 2005, respectively. These letters, written by [REDACTED] the owner of the furniture store, provide that he has known the applicant since November 1981. The letter dated February 25, 2006, provides, "[s]he does not have any current debt and has bought various things at my furniture store throughout the years. [REDACTED] always paid on time. I have come to know her well and have found her to always be a very honest and caring person." This letter lacks significant detail on the applicant's financial accounts with [REDACTED]. This letter fails to provide information on the dates during which the applicant purchased furniture at the store.

This information is necessary to establish the applicant's *continuous* residence in the United States during the requisite period.

The applicant submitted a letter from [REDACTED] cashier and teller with Green Cross Check Cashing. This letter provides, "[I] have known [REDACTED] since 1984 when she started cashing her checks while working at Corporate Knitting, Inc. . . ." Although this letter provides some detail on [REDACTED]'s knowledge of the applicant's residence in the United States since 1984, it does not provide information on the applicant's continuous residence since prior to January 1, 1982. Therefore, this letter cannot alone serve as corroborating evidence of the applicant's continuous residence in the United States during the *entire* requisite period.

The applicant submitted a letter from the applicant's colleagues, [REDACTED] and [REDACTED] dated March 2, 2006. This letter provides, "my wife [REDACTED] and I have worked with the [REDACTED] for 15 or 20 years on and off in sewing factories . . ." This letter contains two significant deficiencies. Firstly, the letter fails to pinpoint the period of time the authors have known the applicant. The letter states either fifteen (15) or twenty (20) years, which could mean that they have known the applicant since either 1991 or 1986. If they have known the applicant since 1991, this date would be outside the requisite period of continuous residence. Secondly, the letter fails to contain the phone number of [REDACTED] and [REDACTED], which could be used to verify their testimony.

The applicant submitted a letter from [REDACTED] and [REDACTED] which provides that they have known the applicant since 1982. This letter provides, "[REDACTED] is our friend since 1982 to this time . . ." This letter lacks significant detail on the authors' first meeting with the applicant and the extent of their contact with the applicant during the requisite period. Moreover, the date of their first meeting, 1982, is inconsistent with a previous letter from [REDACTED] dated March 2, 1992. The previous letter provides, "I know that they were living at [REDACTED] Passaic, New Jersey 07055 from *November, 1981* to June, 1988 . . ."

The applicant submitted a letter from [REDACTED] and [REDACTED] dated March 4, 2006. This letter provides, "we have personally known [REDACTED] since May 1983 to present." This letter also lacks significant detail on the authors' first meeting with the applicant and their knowledge of her continuous residence in the United States since May 1983.

The applicant submitted a letter from [REDACTED] dated March 4, 2006. This letter provides, "I have personally known [REDACTED] since 1978 when she married my cousin [REDACTED]. We have maintained this friendship even closer now since January 1982 to present." This letter fails to state the date that the author first met the applicant in the United States. It also fails to provide information on the extent of the author's contact with the applicant in the United States during the requisite period.

The applicant submitted a letter from [REDACTED] dated March 8, 2006. This letter provides, "[I] known [sic] [REDACTED] since about Nov 1982. [H]er and her husband [REDACTED]"

used to be customers at my Record Store . . .” This letter lacks significant detail on the author’s first meeting with the applicant and his knowledge of the applicant’s continuous residence in the United States since November 1982. Moreover, the date of their first meeting November 1982, is inconsistent with two previous letters from [REDACTED], dated April 23, 1992 and January 9, 2006, respectively. The April 23, 1992 letter provides, “I know that they are in the United States since *November, 1981.*” Similarly, the January 9, 2006 letter provides, “I know that she is in the United States since about *Nove[m]ber, 1981.*”

The applicant submitted a letter from [REDACTED], dated March 11, 2006. This letter provides, “I have known [REDACTED] since December 1981 to the present time. . . I met her by her husband [REDACTED]. They constantly visit my house because they are the God parents of my daughter [REDACTED]. This letter lacks significant detail on the author’s first meeting with the applicant and his knowledge of the applicant’s continuous residence in the United States since December 1981. Moreover, the date of their first meeting December 1981, is inconsistent with a previous letter from [REDACTED] dated March 2, 2006. The previous letter provides, “I have known [REDACTED] since *1986*; she is the Grandmother of my daughter [REDACTED]. . .”

The applicant submitted a letter from [REDACTED], dated March 12, 2006. This letter provides, “I have known [REDACTED] since November 1981 to the present time. We have maintained this friendship even closer now since November 1981 to the present.” This letter lacks significant detail on the author’s first meeting with the applicant and her knowledge of the applicant’s continuous residence in the United States since November 1981.

The applicant submitted a letter from [REDACTED], dated March 13, 2006. However, this letter cannot be viewed as corroborating evidence because it fails to specify the date that the author first met the applicant. This letter provides, “I have personally known [REDACTED] since *December 198* to present.”

The applicant submitted a letter from [REDACTED] dated September 30, 2003. This letter provides, “I want to certify that [REDACTED] was working as a babysitting and doing some cleaning from November 1981 to December 1984 and her salary was \$70.00 per week, [s]he came to my house from 8:00 A.M. to 5:00 P.M.” The regulation at 8 C.F.R. § 245a.2(d)(3)(i) provides the following guidelines on proof of residence through past employment records. This regulation provides that:

Letters from employers should be on employer letterhead stationery if the employer has such stationary, and must include: (A) Alien’s address at the time of employment; (B) Exact period of employment; (C) Periods of layoff; (D) Duties with the company; (E) Whether or not the information was taken from official company records; and (F) Where records are located and whether the Service may have access to the records. If the records are unavailable, an affidavit form-letter stating that the alien’s employment records are unavailable and why such records are unavailable may be accepted in lieu of

(3)(i)(E) and (3)(i)(F) of this paragraph. This affidavit form-letter shall be signed, attested to by the employer under penalty of perjury, and shall state the employer's willingness to come forward and give testimony if requested.

The letter from [REDACTED] fails to follow the above delineated guidelines. This letter does not provide information on the applicant's address during her period of employment. It also fails to provide information on whether any records of employment have been maintained.

The applicant submitted a letter from [REDACTED] Payroll & Personnel, Corporate Knitting, dated May 17, 1991. This letter provides, "[t]his is to certify that [REDACTED] has been employed by the above Company as of 3/28/85 until present. [REDACTED] is a machine operator and earns an hourly rate of \$8.00. . ." This letter also fails to follow the guidelines established in 8 C.F.R. § 245a.2(d)(3)(i). This letter does not provide information on the applicant's address during her period of employment. The letter provides the applicant's position title, but fails to detail the applicant's duties with Corporate Knitting. Finally, this letter fails to state whether the employment information was taken from company records and where those records are located.

The applicant submitted a letter from [REDACTED], dated January 21, 1992. This letter provides, "I personally know [REDACTED] and his wife [REDACTED] residing at [REDACTED] Passaic, New Jersey since July, 1988 to present. [B]efore this address they were living at [REDACTED] Passaic, New Jersey from November, 1981 to June, 1988." This letter lacks significant detail on the author's knowledge of the applicant's residence in the United States during the requisite period. This letter fails to provide information on the author's first meeting with the applicant and the extent of their contact during the requisite period. Additionally, the letter does not contain a phone number to contact the author to verify his testimony.

The applicant submitted a letter from [REDACTED], dated April 15, 1992. This letter provides, "I personally know [REDACTED] and his wife [REDACTED], residing at [REDACTED] Passaic, N.J. 07055. That, I also know that they are in the [U]nited States since November, 1981 . . ." This letter also lacks significant detail on the author's knowledge of the applicant's residence in the United States during the requisite period. This letter fails to provide information on the author's first meeting with the applicant and the extent of their contact during the requisite period. Additionally, the letter does not contain a phone number to contact the author to verify his testimony.

The applicant submitted a copy of an invoice from [REDACTED]. The earliest date on this invoice is January 3, 1986. Although this invoice provides information on the applicant's residence in the United States since January 3, 1986, it does not provide information on the applicant's continuous residence since prior to January 1, 1982. Therefore, this invoice cannot alone serve as corroborating evidence of the applicant's continuous residence in the United States during the *entire* requisite period.

The applicant submitted an illegible copy of a receipt from [REDACTED] Place, dated September 8, 1986, and an original receipt from Today's Fashion, dated February 20, 1987. However, these receipts do not contain the applicant's name or any other information to identify that they belong to the applicant. The applicant has also submitted copies of receipts issued in the name of her husband, [REDACTED]. Since this proceeding involves the issue of the applicant's continuous residence, probative documentation should contain the applicant's name.

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 with the Service, 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.