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FILE: [Redacted]  
MSC 05 186 12172

Office: LOS ANGELES

Date: JUL 30 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: SELF-REPRESENTED

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, Los Angeles, California, 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 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 (the Service), now Citizenship and Immigration Services (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 her claim of residence in this country since 1980 and submits photocopies of documents previously submitted in support of her application.

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).

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 regulation at 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 the membership period; include the seal of the organization impressed on the letter or the letterhead stationery, 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 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 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 April 4, 2005. At block 30 of the Form I-687 application, where applicants are instructed to list all residences in the United States since initial entry, the applicant indicated that she resided at [REDACTED] San Juan Capistrano, [REDACTED] from January 1980 to October 1983 and at [REDACTED] from October 1983 to September 1995. At block 33, where applicants are instructed to list all employment in the United States since initial entry, the applicant indicated that she worked for [REDACTED] as a housekeeper from January 1980 through October 1983 and for [REDACTED] as a housekeeper from October 1983 through September 1995. In support of the application the applicant submitted the following relevant documentation:

1. a letter dated September 1, 1989, from [REDACTED] stating that the applicant worked for her family from June 1984 through June 1986 as a housekeeper and nanny and

that during that period, the applicant ran their household when she and her husband traveled at least one week a month;

2. an affidavit dated September 10, 1990, from [REDACTED] residing at [REDACTED] San Juan Capistrano, California, stating that the applicant worked for her cleaning house and babysitting her son from January 19, 1980 through October 1983;
3. an affidavit from [REDACTED], residing at [REDACTED], Mission Viejo, California, stating that the applicant was referred to her by the [REDACTED] family and that the applicant came to work for her in October 1983 as a full-time housekeeper and subsequently began functioning as a live-in housekeeper and nanny when her first child was born in 1985; and,
4. a letter dated August 1989 from [REDACTED] address and contact information not provided, stating that the applicant worked for her from June 1986 to June 1987 performing child-care and housekeeping duties.

On July 19, 2005, the applicant appeared at the Los Angeles District Office for her legalization interview. At the conclusion of her interview, the applicant was issued a Notice of Intent to Deny affording the applicant thirty (30) days to submit additional evidence to establish continuous residence in the United States from prior to January 1, 1982 through May 4, 1988. The record does not contain a response from the applicant.

The district director determined that the applicant had failed to submit sufficient evidence establishing her continuous residence in this country since prior to January 1, 1982, and, therefore denied the application on January 6, 2006. In the notice of decision, the district director noted that [REDACTED] stated in her letter dated September 1, 1989, that the applicant worked for her from June 1984 through June 1986, whereas [REDACTED] stated in her affidavit dated September 10, 1990, that the applicant worked for her from January 1980 through October 1983.

On appeal, the applicant reiterates her claim of residence in this country since January 1980. The applicant states that [REDACTED] explained in her affidavit dated September 10, 1990, that the applicant continued to clean house for her on weekends after she went to work for [REDACTED] in October 1983. The applicant states that she worked for [REDACTED] from October 1983 to 1995. The applicant explains that [REDACTED] in her letter of September 1, 1989, in stating that the applicant worked for her from June 1984 through June 1986, was referring to the weekends the applicant spent running her household and caring for her children while she and her husband traveled. The applicant states that she has requested new letters from both of her former employers to clarify this issue. In support of the appeal, the applicant submitted photocopies of the documents listed at Nos. 1, 2, and 3 above. To date, the applicant has not submitted additional employment affidavits from [REDACTED] or [REDACTED] to corroborate her statements on appeal.

[REDACTED] stated in her affidavit dated September 10, 1989, that the applicant worked for her as a housecleaner and nanny from June 1984 through June 1986. This statement contradicts [REDACTED]

statement in her affidavit that the applicant dated September 10, 1990, that the applicant worked for her from January 19, 1980 through October 1983. It also contradicts [REDACTED] statement in her affidavit dated September 10, 1990, that the applicant began working for her as a full-time housekeeper in October 1983 and began functioning as a live-in housekeeper and nanny in 1985 after [REDACTED] first child was born. Additionally, this statement contradicts [REDACTED] s statement in her letter of August 1989 that the applicant worked for her as a housekeeper and child-care provider from June 1986 to June 1987.

Furthermore, the applicant indicated on the Form I-687 that she lived at [REDACTED] s residence from October 1983 to September 1985. This contradicts [REDACTED] statement that the applicant didn't begin to work for her as a live-in housekeeper and nanny until 1985 when her first child was born. Moreover, [REDACTED] stated in her letter that the applicant worked for her as a housekeeper and childcare provider from June 1986 to June 1987. This statement contradicts the applicant's statement on the Form I-687 that she worked for [REDACTED] from October 1983 to September 1995.

The applicant states on appeal, "In her letter of September 1, 1989, [REDACTED] was referring to the weekend work and watching her home while she was traveling with her husband." The applicant's statement is not consistent with [REDACTED] statement in her letter of September 1, 1989. In that letter [REDACTED] stated, "[a]t that time my husband and I were traveling at least one week out of the month and Epifania was most efficient at running our household." [REDACTED] specifically mentioned in this letter that the applicant ran her household *for a week at a time* while she and her husband traveled, not that the applicant watched her house on weekends. [REDACTED] did state in her letter dated September 10, 1990, that the applicant continued to clean her house on weekends after she began working for [REDACTED] in October 1983, but she did not indicate that the applicant's weekend household cleaning was performed while she and [REDACTED] traveled. The applicant could not have worked full-time for both [REDACTED] and [REDACTED] during the period from October 1983 through June 1986, nor could she have worked full-time for both [REDACTED] and [REDACTED] during the period from June 1986 to June 1987. The applicant has not provided a credible explanation for these discrepancies in her claimed dates of employment for [REDACTED], and [REDACTED].

The applicant indicated that she would attempt to get new letters from [REDACTED] and [REDACTED] clarifying the applicant's employment for them, but she has not submitted a letter from [REDACTED] or [REDACTED] to corroborate her statements on appeal. The applicant's unsupported statements are insufficient to overcome the discrepancies noted above. 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 throughout 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 her burden of proof in establishing by a preponderance of the evidence that she resided continuously in the United States from prior to January 1, 1982 to May 4, 1988, as required under both 8 C.F.R. § 245a.2(d)(3) and *Matter of E- M-, supra*.

Given the applicant's reliance upon supporting 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 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.