

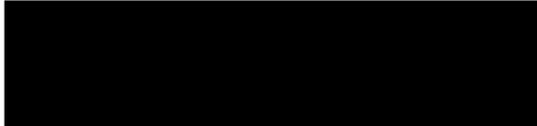
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U.S. Citizenship
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FILE: MSC-05-161-10306

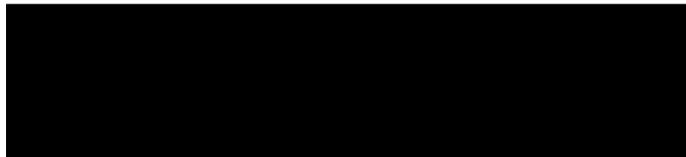
Office: DETROIT

Date: JUN 14 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:



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, Detroit, 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. 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.

On appeal, counsel for the applicant asserts that she has established by a preponderance of the evidence her residence in the United States.

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.

The record shows that the applicant filed a Form I-687, Application for Status as a Temporary Resident, and a Form I-687 Supplement, with the CIS on March 10, 2005. Part 30 of the application requests the applicant to list all of her residences in the United States since her first entry. The applicant responded that she resided at [REDACTED] New York, New York from October 1981 until March 1990. However, the applicant has failed to provide corroborating evidence to establish by a preponderance of the evidence her continuous residence in the United States during this period.

The regulation at 8 C.F.R. § 245a.2(d)(3)(v) provides that evidence to establish proof of continuous residence in the United States during the requisite period of time may consist of an attestation by a church or other organization, which identifies the applicant by name, is signed by an official, shows inclusive dates of membership, states the address where applicant resided during the membership period, includes the seal or letterhead of the organization, establishes how the author knows the applicant, and establishes the origin of the information being attested to. The applicant has submitted a letter, dated December 14, 1990, from [REDACTED] Public Information, [REDACTED] located in New York, New York. This letter provides, "[REDACTED] is a member of the Muslim Community and she has been here

since 1981. [REDACTED] attends Friday Jumah prayer services and other prayer services here at the [REDACTED].” The letter from [REDACTED] fails to satisfy the delineated criteria in two fundamental respects. The letter fails to explain where the applicant resided during the membership period and it fails to establish the origin of the information being attested to. Moreover, the applicant’s Form I-687 application is inconsistent with the information contained in this letter. Part 31 of the application requests the applicant to list affiliations or associations. The applicant responded that she has been involved with the [REDACTED] located in New York, New York, from *March 1992 until June 1997*. It should be noted that the applicant signed her application under penalty of perjury certifying that the information contained in the application is true and correct. Finally, on January 26, 2006, the applicant provided sworn testimony before a CIS district adjudications officer that she prayed at the [REDACTED] Mosque located in New York, New York, in 1988. This sworn testimony is again inconsistent with the applicant’s Form I-687 application and the letter from [REDACTED]. The lack of detail and inconsistencies related to the [REDACTED] letter undermines its overall credibility, and therefore, it cannot be given any weight as corroborating evidence.

An applicant may also provide “any other relevant document” as proof of her residence. 8 C.F.R. § 245a.2(d)(3)(vi)(L). The applicant has submitted a letter from [REDACTED] which provides, “I [REDACTED] certify that I have known [REDACTED] since 1981 [sic] I was originally a customer of her mother, who used to braid my hair and sometimes I would buy African Items when she had things that interest me. Since that time her mother, [REDACTED] introduce [sic] me to her daughter who have [sic] been doing my hair. . .” This letter contains several apparent deficiencies. The letter fails to contain any type of identification document to verify [REDACTED]’s credibility. The letter also fails to provide the applicant’s address during the requisite period. Moreover, the letter fails to provide detailed information on the extent of [REDACTED] contact with the applicant since their purported meeting in 1981. Therefore, this document can only be afforded minimal weight due to its lack of detail.

The applicant has failed to provide any other documentation to corroborate her period of continuous residence in the United States during the requisite period. The regulation at 8 C.F.R. § 245a.2(d)(6) provides that, “[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 absence of sufficiently detailed documentation to corroborate the applicant’s claim of continuous residence for the 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 contradictory statements on her application and her 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.