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U.S. Citizenship  
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[REDACTED]

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FILE: [REDACTED] MSC-05-232-12352

Office: CLEVELAND

Date: OCT 31 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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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

The director determined the applicant failed to demonstrate that he is eligible for temporary resident status. Specifically, the director indicated that the applicant failed to provide any evidence at his interview with an immigration officer that he lived in the United States at any time during the period between January 1, 1982 and November 6, 1986. The director also indicated the applicant failed to provide evidence that he registered as a class member and testified that he never applied for any immigration benefits during the relevant time period. Since the director issued a full decision, the director is found not to have denied the application for class membership.

On appeal, the applicant provided supporting documentation including declarations and copies of envelopes addressed to him.

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 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 applicant 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 applicant 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 and 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 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 of 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 Citizenship and Immigration Services (CIS) on May 20, 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 only address during the requisite period to be at [REDACTED] from June 1981 to November 1999. At part #31, where applicants were asked to list all affiliations or associations, clubs, organizations, churches, unions, businesses, etc., the applicant stated, "none."

In denying the application, the director determined the applicant failed to demonstrate that he is eligible for temporary resident status. Specifically, the director indicated that the applicant failed to provide any evidence at his interview with an immigration officer that he lived in the United States at any time during the period between January 1, 1982 and November 6, 1986.

On appeal, the applicant provided supporting documentation including declarations and copies of envelopes addressed to him. The applicant provided envelopes addressed to him at the address listed on the Form I-687 and containing the following cancellation date stamps: May 24, 1981, September 19, 1984, and January 25, 1985. These envelopes tend to indicate the applicant was present in the United States during May 1981, September 1984, and January 1985.

The applicant provided a declaration from [REDACTED] in which he stated that the applicant traveled with him to New York from Canada in 1981. The declarant provided details regarding his entry into the United States. However, the declarant did not explain the manner in which he became acquainted with the applicant or how he is able to recall the year he entered the United States with the applicant. As a result, this declaration is found to lack sufficient detail.

The applicant provided a copy of a letter dated January 26, 2006 from [REDACTED] Patient Financial Service Representative at Harlem Hospital Center. The letter is printed on Harlem Hospital Center letterhead, but the photocopy interrupts the hospital telephone number so that the last four digits do not appear. In addition, the letter appears to have been printed on a photocopy of the hospital letterhead. Specifically, the printing of the letter is considerably darker than the printing of the letterhead, and the letter and letterhead printing do not line up evenly on the page. In this letter, [REDACTED] stated that the applicant was admitted to the hospital's emergency service unit as an outpatient in 1983. The applicant was suffering from severe broken ribs, dislocated ribs and fractured skull as a result of an accident. The applicant was sent home after a week of observations and ordered to stay in bed for two months. [REDACTED] was in charge of his account and billing for his treatments at the hospital. No supporting records were provided with this letter, the letter does not include the applicant's address at the time of treatment, and [REDACTED] failed to explain her ability to recall significant details regarding the medical care the applicant received more than twenty years ago. As a result, this letter is found to lack sufficient detail.

The applicant provided a letter from [REDACTED] of the Pan African Islamic Society mosque in New York. In this letter, [REDACTED] confirmed the applicant prayed at the mosque from 1984 through 1989. This letter does not conform to regulatory standards for letters by churches, unions, or other organizations. Specifically, the letter does not state the address where the applicant resided during the membership period. 8 C.F.R. § 245a.2(d)(3)(v). This letter is also found to be inconsistent with the information provided on Form I-687 at part #31, where applicants were asked to list all affiliations or associations, clubs, organizations, churches, unions, businesses, etc., and the applicant stated, "none."

The applicant also provided a letter from [REDACTED] CNM from Bronx-Lebanon Hospital Center. The letter is printed on Bronx-Lebanon Hospital letterhead. In this letter, [REDACTED] stated that the applicant was brought to the hospital's emergency service in 1985 to have shots against DTP, malaria, and bad back pain. Another time in 1985 he was suffering from acute gastrointestinal inflammation, with complication of diarrhea. [REDACTED] met the applicant that day, treated him with antibiotics, and gave him a business card in case he would need further treatment. [REDACTED] stated that the applicant has been known to him since 1985. This letter does not confirm the applicant resided in the United States. No supporting records are provided with this letter and the letter does not include the applicant's address at the time of treatment. [REDACTED] failed to explain his ability to recall significant details regarding the medical care the applicant received more than twenty years ago. He also failed to explain his knowledge of the applicant's first visit to the hospital, considering that [REDACTED] did not meet the applicant until his second visit.

In summary, the applicant has only provided contemporaneous evidence of residence in the United States for three specific dates in 1981, 1984, and 1985, and has submitted other documents that lack sufficient detail, fail to conform to regulatory standards, are inconsistent with information provided on Form I-687, or do not confirm the applicant resided in the United States. Specifically, the declaration from [REDACTED] and the letter from [REDACTED] lack sufficient detail. The letter from [REDACTED] does not conform to regulatory standards and is inconsistent with the information provided on Form I-687. The letter from [REDACTED] fails to confirm the applicant resided in the United States.

The absence of sufficiently detailed and consistent 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 contradictory statements contained in the applicant's I-687 application and supporting letter, and the applicant's reliance upon 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 the date he attempted to file a Form I-687 application 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.