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**U.S. Citizenship
and Immigration
Services**

FILE: [REDACTED]
MSC 05 204 11111

Office: NEW YORK

Date: **SEP 18 2007**

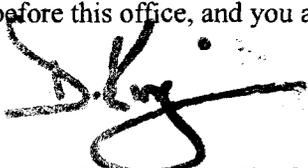
IN RE: Applicant: [REDACTED]

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.


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

The district director determined 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 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, the applicant reiterates his claim of continuous residence in the United States since 1981. He re-submits copies of affidavits previously submitted in support of his application along with photocopies of photo identification and a contact phone number for each affiant. Although a Notice of Entry of Appearance as Attorney or Representative (Form G-28) was submitted with the applicant's Form I-687, the individual who signed the Form G-28, [REDACTED] is no longer authorized under 8 C.F.R. § 292.1 or 292.2 to represent the applicant. *See* [REDACTED]. Therefore, the applicant will be considered self-represented and this decision will be furnished to the applicant only.

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 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 CIS on April 22, 2005. At part #30 of the Form I-687 application where applicants are instructed to list all residences in the United States since first entry, the applicant indicated that he resided at [REDACTED] from June 1981 to August 1985 and at [REDACTED] from August 1985 to October 1990. At part #33, where applicants are instructed to list all employment in the United States since initial entry, the applicant indicated that he had been self-employed since June 1981.

At his interview with a CIS officer on October 27, 2005, the applicant stated that he first entered the United States on June 20, 1981, with his u [REDACTED]

In an attempt to establish continuous unlawful residence in this country since prior to January 1, 1982, the applicant submitted an affidavit dated March 17, 2005, from [REDACTED] stated that he and the applicant shared an apartment located at [REDACTED] from 1981 to 1985. [REDACTED] did not provide any information as to how he met the applicant.

The applicant also submitted an affidavit dated March 17, 2005, from [REDACTED] resident of Milton, Florida. [REDACTED] stated that the applicant, who is a long-time friend of his from Pakistan, "stayed with me here in the States for a while in 1988." However, [REDACTED] provided no information as to the address where he resided when the applicant stayed with him in 1988 or the inclusive dates of the period when the applicant stayed with him.

The applicant included an affidavit dated March 21, 2005, from [REDACTED] a resident of Centreville, Virginia. [REDACTED] stated that he knew the applicant in Pakistan. He further stated that the applicant lived with him from 1987 to 1990. However, [REDACTED] provided no information as to the address where he resided when the applicant stayed with him during the period from 1987 to 1990.

On January 25, 2006, the district director issued a notice informing the applicant of her intent to deny his application unless he submitted additional evidence to corroborate his claim of continuous residence in the United States during the requisite period. The district director granted the applicant 30 days to submit additional evidence in support of his claim.

The applicant, in response, submitted a letter dated February 24, 2006, from [REDACTED] a resident of Jamaica, New York. [REDACTED] stated that the applicant worked for him "as a cashier and all around man" from 1981 to 1985 at his "location at [REDACTED]"

Pursuant to 8 C.F.R. § 245a.2(d)((3)(i), letters from employers should be on letterhead stationery, if the employer has such stationery, and must include: (A) the alien's address at the time of employment; (B) the exact period of employment; (C) periods of layoff if any; (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 CIS may have access to the records. The letter from Mr. [REDACTED] does not conform to this standard. [REDACTED] provided no information as to the nature of his business. Nor did he provide the applicant's addresses in the United States during his period of employment.

The district director denied the application on March 15, 2006, because the applicant failed to submit sufficient evidence to establish continuous residence in the United States during the requisite period. The district director specifically noted in the denial decision that affiants [REDACTED] and [REDACTED] had not provided proof that they were in the United States during the statutory period, that there was a relationship between them and the applicant, and current phone numbers where they could be contacted for the purpose of verification of their testimony.

On appeal, the applicant provides copies of the affidavits from affiants Engineer, [REDACTED] and [REDACTED] with contact telephone numbers. However, none of these affiants provided any additional specific and verifiable information to corroborate the applicant's claim of continuous residence in the United States during the requisite period.

In summary, the applicant has not provided any contemporaneous evidence of residence in the United States relating to the 1981-88 period, and has submitted attestations from only four people concerning that period, all of which lack sufficient verifiable information to corroborate the applicant's claim.

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 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.