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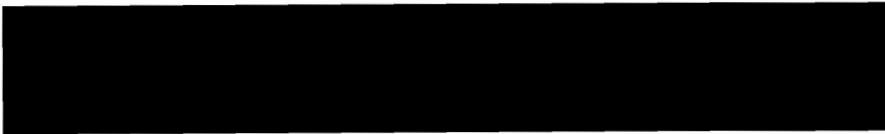
Office: LOS ANGELES

Date: APR 02 2008

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

The applicant submitted a Form I-687, Application for Status as a Temporary Resident under Section 245A of the Immigration and Nationality Act (Act), and a Form I-687 Supplement, CSS/Newman Class Membership Worksheet. The director determined that the applicant had not established by a preponderance of the evidence that she had continuously resided in the United States in an unlawful status for the duration of the requisite period. The director denied the application, finding that the applicant had not met her burden of proof and was, therefore, not eligible to adjust to temporary resident status pursuant to the terms of the CSS/Newman Settlement Agreements.

On appeal, the applicant asserts that the director did not properly assess the evidence submitted in support of the 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). The applicant must also 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).

Under the CSS/Newman Settlement Agreements, for purposes of establishing residence and presence in accordance with the regulation at 8 C.F.R. § 245a.2(b)(1), "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 during the original legalization application period of May 5, 1987 to May 4, 1988. CSS Settlement Agreement paragraph 11 at page 6; Newman Settlement Agreement paragraph 11 at page 10.

The applicant has the burden of proving by a preponderance of the evidence that he or she has resided in the United States for the requisite period, 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 "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, 431 (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 during the requisite time period. Here, the applicant has not met this burden.

The record contains the following documentation submitted in support of the applicant's claim:

1. A handwritten letter dated February 28, 2005 and an affidavit dated February 22, 2006 from [REDACTED] who claimed that she met the applicant in 1981 and stated that the applicant used to clean her mother's house. Although the affiant attested to the applicant's good character, her statements lack any details that would lend credibility to an alleged 25-year relationship with the applicant. As such, the statements can be afforded minimal weight as evidence of the applicant's residence in the United States for the requisite period.
2. An affidavit dated June 29, 1996 from [REDACTED] claiming that she met the applicant in December 1987 and hired her as a babysitter in January 1988.
3. A letter dated February 10, 2005 from [REDACTED] who claimed that he met the applicant in 1981 and later became her good friend. However, the statement is not notarized and is not accompanied by identification; it lacks any details that would lend credibility to an alleged 24-year relationship with the applicant; it does not include the address or telephone number of the person making the statement on the applicant's behalf, and thus cannot be verified; and it does not contain a legible signature such that the last name is recognizable. As such, the statement can be afforded minimal weight as evidence of the applicant's residence in the United States for the requisite period.
4. A statement dated January 23, 2005 and an affidavit dated February 16, 2006 from [REDACTED] who claimed that he had known the applicant since July 1981. He stated that the applicant cleaned his and his sister's houses. Although Mr. [REDACTED] stated in the first

statement that he saw the applicant very rarely after September 1989, he did not specify the frequency of his encounters with the applicant prior to that time or, more importantly, during the statutory period. Both of the affiant's statements lack any details that would lend credibility to his claim that he knew of the applicant's residence in the United States during the statutory period.

5. A February 2005 handwritten letter signed by [REDACTED] claiming that the applicant is her good friend and that she has known the applicant since the summer of 1981. Although Ms. [REDACTED] states, "We lived in San Diego, Ca." and provides an address, she does not clarify who "we" represents, nor does she specify the dates of the claimed residence at the address given. Furthermore, the statement is not notarized and is not accompanied by identification; it lacks any details that would lend credibility to an alleged 24-year relationship with the applicant; and it does not include the address or telephone number of the person making the statement on the applicant's behalf, and thus cannot be verified. As such, the statement can be afforded minimal weight as evidence of the applicant's residence in the United States for the requisite period.
6. Statements from [REDACTED] and [REDACTED] all written in February 2005 and all four nearly identical in their content. The only difference is Mr. [REDACTED] claim that the applicant is currently employed as a housekeeper. All four individuals stated that they had known the applicant since 1981, but provided no information about the circumstances of their respective first encounters with the applicant. Furthermore, with the exception of Mr. [REDACTED] statement, the remaining statements are not notarized or otherwise accompanied by identification; and all four letters lack any details that would lend credibility to the alleged 24-year relationships between the respective individuals and the applicant. As such, these statements can be afforded minimal weight as evidence of the applicant's residence in the United States for the requisite period.
7. A statement from [REDACTED] dated February 24, 2005 stating that the applicant came to the United States in 1980 or 1981 and has lived in Texas and California ever since. As Mr. [REDACTED] did not explicitly state that he knew the applicant since 1980 or 1981, it is unclear whether his claim is based on his own first-hand knowledge. Further, as the applicant has not provided any information that suggests she ever lived anywhere but California, the reliability of Mr. [REDACTED] statement comes under further scrutiny and can be afforded minimal weight as evidence of the applicant's residence in the United States for the requisite period.
8. An undated letter from [REDACTED] stating that she has been friends with the applicant since 1981. Although Ms. [REDACTED] claimed that the applicant babysat her kids for four years, she did not state the dates of this purported employment or provide any other details that would lend credibility to the alleged 24-year relationship with the applicant. Ms. [REDACTED] statement is also unaccompanied by identification. Thus, based on these

deficiencies the statement can be afforded minimal weight as evidence of the applicant's residence in the United States for the requisite period.

9. A letter form [REDACTED] dated January 8, 2005, stating that the applicant worked for him and his family as a cleaning lady. Mr. [REDACTED] did not specify the dates of the claimed employment nor did he claim to have known the applicant since 1981. As such, it is unclear whether his assertion that the applicant has lived in the United States since 1981 is based on his own first-hand knowledge. Based on Mr. [REDACTED] statement, it is unclear when he first met the applicant or if he knew her at all during the statutory period.
10. A letter dated January 21, 2005 from [REDACTED] stating that the applicant has resided in the United States since July 1981 and has worked for her as a housekeeper since 1989. The record also contains two affidavits from Ms. [REDACTED]. In the earlier affidavit, dated April 30, 1996, the affiant claimed that she employed the applicant as a housekeeper since October 1990 and made no indication that she knew the applicant prior to that time. In the later affidavit, signed on February 16, 2006, the affiant claimed that she had known the applicant since January 1981 during which time the applicant purportedly worked as the affiant's housekeeper. As Ms. [REDACTED]'s statements are inconsistent with one another, they can be afforded minimal weight as evidence of the applicant's residence in the United States for the requisite period.

Additionally, as properly pointed out by the director in his August 26, 2006 denial, the applicant's history of residence in the United States commences with the year 1996 and her employment history commences with the year 1990. If the applicant both lived and worked in the United States since 1981, as claimed by the above individuals, it is unclear why she did not disclose the addresses for the relevant time period on her Form I-687.

On appeal, the applicant asserts that the director erred in his adverse findings. Her argument, however, is without merit. The AAO has provided a detailed analysis, thoroughly explaining the deficiencies and inconsistencies of the letters and affidavits submitted on the applicant's behalf. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the applicant submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

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 statements that are deficient in content and/or credibility.

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 as required under both 8 C.F.R. § 245a.2(d)(5) and *Matter of E-M-*, 20 I&N Dec. 77. 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.