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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
MSC 06 096 18770

Office: NEW YORK

Date: APR 07 2008

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 "R. 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, New York. The decision 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 submits a brief statement and additional documentary evidence in support of her claim of continuous residence in the United States during the requisite period.

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 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). The regulations clarify that the applicant must have been physically present in the United States from November 6, 1986 until the date of filing the application. 8 C.F.R. § 245a.2(b).

For purposes of establishing residence and physical presence under the CSS/Newman Settlement Agreements, the term “until the date of filing” in 8 C.F.R. § 245a.2(b) means until the date the applicant 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.* at 80. 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.

At issue in this proceeding is whether the applicant has submitted sufficient credible evidence to meet her burden of establishing continuous unlawful residence in the United States during the requisite period. Here, the applicant has failed to meet this burden.

The record shows that the applicant submitted a Form I-687 application and Supplement to Citizenship and Immigration Services (CIS) on January 4, 2006. The applicant signed this form under penalty of perjury, certifying that the information she provided is true and correct. 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 stated that she resided at: [REDACTED] in Byram, Connecticut from May 1982 to September 1986; [REDACTED], in Port Chester, New York, from September 1986 until March 1987; and at [REDACTED], in Greenwich, Connecticut from May 1987 until December 1988. The applicant did not indicate on the Form I-687 that she continuously resided in the United States during the requisite period, as she did not indicate a residence in the United States prior to May 1982. At part #32 of the form, the applicant indicated that she was absent from the United States from March 1987 until May 1987 due to an illness in her family.

At part #33 of the Form I-687, where asked to list all employment in the United States, the applicant indicated the following employers in Greenwich, Connecticut during the requisite period: Bergens Steven Laundry (February 1982 until July 1984); Green Street Restaurant (July 1984 until March 1987); and Obsession the Hair Spa (May 1987 until January 1989).

To meet her burden of proof, an applicant must provide evidence of eligibility apart from her own testimony. 8 C.F.R. § 245a.2(d)(6). The regulation at 8 C.F.R. § 245a.2(d)(3) provides an illustrative list of documentation that may be provided to establish proof of continuous residence in the United States during the requisite period. This list includes: past employment records; utility bills; school records; hospital or medical records; attestations by churches, unions or other organizations; money order receipts;

passport entries; birth certificates of children; bank books; letters or correspondence involving the applicant; social security card; selective service card; automobile receipts and registration; deeds, mortgages or contracts; tax receipts; and insurance policies, receipts, or letters. The applicant submitted the following documentary evidence in support of her application:

- A copy of her Brazilian passport (# [REDACTED]) issued on March 17, 1987 by "Servico de Policia Maritima, Aerea e de Fronteiras, Belo Horizonte." The passport contains a B-2 visa issued in Rio de Janeiro on April 15, 1987, and an entry stamp showing that the applicant was admitted to the United States on May 9, 1987.
- Photocopies of envelopes addressed by the applicant to recipients in Brazil, postmarked November 14, 1987, March 16, 1988, August 27, 1990, and January 26, 2000, respectively.
- A New York State Incident Report regarding a fire that occurred at [REDACTED] in Mount Vernon, New York on March 29, 1991. The report identifies the occupants of the property as [REDACTED] a and [REDACTED]. The applicant explained at the time of her interview that the passport she had at the time she entered the United States was lost in a house fire. However, the applicant indicated on her Form I-687 that she resided at this address from April 1991 until December 1991. If the fire occurred before the applicant resided there, it is unclear how she would have lost documents in the fire that occurred at this property.

The applicant submitted additional evidence, including copies of birth certificates for her children born in October 1989 and January 2000, medical records dated February 10, 1989, a copy of her driver license issued in April 1992, and various bills and financial records dated between 1992 and 2005. Evidence dated after 1988 is not relevant to the issue in this matter and therefore it will not be discussed in further detail.

An applicant may also submit "any other relevant document." 8 C.F.R. § 245a.2(d)(3)(vi)(L). The applicant submitted the following evidence at the time she filed her application:

- A notarized letter dated December 19, 2005 from [REDACTED] who stated that she has known the applicant for "several years" and attested to her good character.
- A notarized letter dated December 19, 2005 from [REDACTED] who stated that she has known the applicant for the past five years and attested to her good character.
- A notarized letter dated December 18, 2005 from [REDACTED], who stated that he has known the applicant "over a period of time" and attested to her good character.
- A notarized letter dated December 21, 2005 from [REDACTED]s, who stated that the applicant does part-time cleaning work for her. The applicant provided copies of two checks issued to her by _____ in May and December 2005.
- A letter dated December 22, 2005 from [REDACTED] who stated that she has employed the applicant on a part-time basis for the past two years.

None of the above-referenced individuals claim to have any direct, personal knowledge that the beneficiary was continuously residing in the United States for the duration of the requisite period. Rather, most of them appear to have a fairly recent acquaintance with the applicant. As such, their statements are not relevant to this matter.

Finally, the applicant provided a notarized letter dated December 22, 2005 from [REDACTED] who stated that the applicant rented an apartment located at [REDACTED] in Greenwich, Connecticut during the years 1986, 1987 and 1988. While the applicant did indicate on her Form I-687 that she resided at this address, she indicated that she lived there only from May 1987 until December 1988. 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). Furthermore, [REDACTED] provided no explanation regarding the source of the information to which he attested or his relationship with the applicant, nor did he provide a telephone number where he could readily be contacted for verification. As [REDACTED]'s testimony is inconsistent with the applicant's own statements and lacking in detail, its probative value is extremely limited.

The applicant was interviewed under oath by a Citizenship and Immigration Services (CIS) officer on June 8, 2006. At the time of her interview the applicant submitted the following additional evidence:

- A "CSS/LULAC Legalization and Life Act Adjustment Form to Gather Information for Third Party Declarations" completed by [REDACTED] Ms. [REDACTED] stated that she was a close friend of the applicant's mother and has known the applicant since she was a baby. Where asked to indicate how she knew the applicant came to the United States before 1982, [REDACTED] stated "She came to my house, in Newark and she stayed with me for two (2) months - until she moved to Byram, CT." Although not required to do so, [REDACTED] provided a copy of her Certificate of Naturalization as proof of her identity.

form was not signed or notarized. Furthermore, it is lacking in detail with respect to confirming whether the applicant first entered the United States prior to 1982. As noted above, the first U.S. address listed by the applicant on her Form I-687 was in Byram, Connecticut in May 1982. If the applicant did in fact live with [REDACTED] in New Jersey for two months immediately prior to moving to Byram, then it appears based on the applicant's initial statement that she lived with her in early 1982, rather than immediately upon her alleged arrival in the United States in August 1981. The gap in the applicant's residence between August 1981 and May 1982 is significant, and it is unclear why the applicant did not indicate her period of residence in New Jersey with [REDACTED] on her Form I-687. During her interview, the applicant did state that she resided with [REDACTED] at 134 Ferry Street for two months, but there remains a period of residence during this timeframe that has not been documented or otherwise accounted for. Again, 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).

Furthermore, although [REDACTED] claims to have known the applicant for her entire life, she provided little relevant, verifiable testimony regarding the applicant's continuous residence in the United States during the requisite period. She mentioned spending time with the applicant on the weekends and being close to her, but did not offer any details that would tend to lend probative value to her testimony, such as, information regarding where the applicant lived or worked during the relevant period. Because the information provided by [REDACTED] is not entirely consistent with the beneficiary's own statements, and is significantly lacking in detail, it can be given limited evidentiary weight.

- A "CSS/LULAC Legalization and Life Act Adjustment Form To Gather Information for Third Party Declarations" completed by Leslie Trammel, a resident of Mt. Vernon, New York. Ms. [REDACTED] stated that she first met the applicant in October 1981 at Grand Central Station in New York, when she gave her directions on which train to take, and indicated that the applicant "was coming from Greenwich, Connecticut on her way to Port Chester to her home." She also stated that she and the applicant became friends at that time and have remained friends over time. She provided a copy of her New York State identification card as proof of her identity.

Here, while [REDACTED] provided very specific information regarding the date and circumstances under which she met the applicant, she provided no details regarding the applicant's residence in the United States beyond her initial meeting with her, nor did she specifically state that she has direct, personal knowledge of the events to which she is attesting, or of the applicant's continuous residence in the United States. As noted by the director, a CIS officer contacted [REDACTED] to verify her statement, and she could only confirm that she has known the applicant for a long time. Furthermore, with respect to her previous recollection regarding the applicant's specific travel itinerary in 1981, her testimony is unverifiable, as the applicant herself has not accounted for her whereabouts as of October 1981, and did not claim to reside in Port Chester until September 1986. Finally, it is noted that the applicant indicated on her Form I-687 that [REDACTED] was her employer from 1999 until 2003, yet, notably, [REDACTED] made no mention of this employer-employee relationship in her statement. For these reasons, [REDACTED]'s testimony is lacking in probative value and will be given little evidentiary weight.

- A "CSS/LULAC Legalization and Life Act Adjustment Form To Gather Information for Third Party Declarations" completed by [REDACTED] a resident of Mount Vernon, New York. He stated that the applicant was a friend of his daughter, Debbie, and that he met her at his house in Mount Vernon, New York in 1982. He stated that his family had her over for dinner regularly and would help her with English, and that she remains a friend of his family. Although not required to do so, [REDACTED] provided a copy of his New York State driver license as proof of his identity. However, the form is neither signed nor notarized. [REDACTED]'s statement suffers from many of the same deficiencies as those noted above, as he provided little relevant information other than indicating that he met the applicant in 1982. He has not established that he has direct, personal knowledge of the circumstances of the applicant's residence in the United States.

- A letter dated June 5, 2006 from [REDACTED], who stated: "From 1986-89, she was a co-worker at Obsession Hair Spa in Greenwich, CT." She did not reference the applicant by name and her statement is not notarized. Ms. [REDACTED] provided a copy of her New York State cosmetology license issued in May 2006. As noted above, the applicant stated on her Form I-687 that she worked for Obsession Hair Spa from May 1987 until January 1989, thus, there is a significant discrepancy with respect to the applicant's dates of employment, and no independent, objective evidence to resolve this inconsistency. Again, 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). Accordingly, Ms. O'Shea's statement is also lacking in probative value.
- A color photograph dated May 1986 with a notation indicating that it shows that applicant and co-workers at a surprise party held at the Obsession Hair Spa. Again, the applicant indicated that she commenced employment with this business in May 1987.
- Three original letters/postmarked envelopes addressed to the beneficiary, including:
 - (1) An envelope bearing Brazilian postage stamps, with a postage cancellation stamp dated October 23, 1981. The letter is addressed to the applicant at "[REDACTED]" in Byram, Connecticut. The applicant indicated on her Form I-687 that she resided at this address beginning in May 1982.
 - (2) An envelope bearing Brazilian postage stamps with a postage cancellation stamp dated November 15, 1983, also addressed to the applicant at the [REDACTED] address.
 - (3) An envelope bearing Brazilian postage stamps with a postage cancellation stamp dated October 14, 1986. The letter is addressed to the applicant at the [REDACTED] Portchester, New York address.
- Three original letters/envelopes mailed by the beneficiary from the United States, including:
 - (1) An envelope addressed to a recipient in Brazil, mailed from Westchester, New York on July 8, 1987. The beneficiary indicated her return address as [REDACTED] Port Chester, New York. The beneficiary stated on her Form I-687 that she was residing at [REDACTED] in Greenwich, Connecticut beginning in May 1987, and this discrepancy has not been explained.
 - (2) An envelope addressed to a recipient in Brazil, mailed by the applicant from Stamford, Connecticut on March 16, 1988.
 - (3) An envelope addressed to a recipient in Brazil bearing a U.S. Air Mail stamp, but no postmark, thus making it impossible to determine when this letter was mailed. The return

address on the envelope identifies the applicant's address as [REDACTED] in Greenwich, Connecticut, where she claims to have lived from May 1987 until December 1988. However, the letter inside the envelope is identified as having been written in Portchester on June 26, 1986. The applicant claims to have resided in Portchester from September 1986 until March 1987.

The CIS officer's notes from the applicant's interview reflect that the applicant initially testified under oath that she attended school in Brazil for 13 years, and started school at the age of six, but that she revised her testimony, indicating that she attended school in Brazil for 11 years. She testified that she entered the United States in August 1981 at the age of 16 by flying to Tijuana, Mexico and crossing the U.S.-Mexico border into San Diego. She stated that the original passport was lost in a fire. The applicant further testified that she resided at [REDACTED] in New York with [REDACTED] for two months, and then lived at [REDACTED] in Byram, Connecticut with a friend for four to five years, at 36 Arch Street in Greenwich, Connecticut with two friends until 1989.

The director issued a Notice of Intent to Deny (NOID) to the applicant on June 8, 2006. The director acknowledged the applicant's claim of continuous residence, but found that the affidavits submitted appeared to be neither credible nor amenable to verification. The director observed that none of the affiants established that they had direct personal knowledge of the events and circumstances of the applicant's residence. The director noted that the affiants were "unreachable" at the telephone numbers provided by them.

The director also questioned the applicant's testimony that she attended school in Brazil for 13 years prior to coming to the United States, noting that, based on such testimony, the applicant would not have come to the United States before she was 19 years old.

The applicant responded to the NOID on July 5, 2006, at which time she submitted the following additional documentation:

- A photocopy of a Brazilian airlines airline ticket issued to the applicant for an August 23, 1981 flight to Mexico. While the applicant claims to have entered the United States through the U.S.-Mexico border in August 1981, the plane ticket alone is insufficient to establish that she did in fact make any entry to the United States prior to January 1, 1982.
- A photocopy of the applicant's Brazilian "high school diploma" showing that she graduated on December 2, 1980 from "Francisco Ribeiro da Fonseca State School of Ouro Fino" with a major in education. It is noted that the applicant would have been 15 years old at that time. The applicant stated during her interview that she started school in Brazil at the age of six and attended for either 11 or 13 years, which would have made her either 17 or 19 upon completion of her studies. The "diploma" itself appears to have been created using a word processing program that did not exist in 1980 and its authenticity can reasonably be called into question.

- A New York Telephone bill in the applicant's name, dated October 25, 1985, which identifies her address as [REDACTED], Greenwich, Connecticut.
- A photocopy of a Discharge Notice issued to the applicant by the United Hospital Medical Center in New York, dated December 12, 1983.
- Patient records dated April 14, 1986 from Greenwich Hospital Association in Greenwich, Connecticut. (The applicant also submitted medical records dated May 1988 and later, which are not relevant to her claim of continuous residence during the requisite period.)
- A "CSS/LULAC Legalization and Life Act Adjustment Form to Gather Information for Third Party Declarations" completed by [REDACTED]. Ms. [REDACTED] indicated that she met the applicant in December 1981 at her house in Bronx, New York. She stated that the applicant came to her house with a friend [REDACTED] was helping with English, and that she has always kept in touch with the applicant since that time. Although not required to do so, [REDACTED] provided a copy of her New York State driver license as proof of her identity. The same deficiencies that apply to the statements provided by [REDACTED] and [REDACTED] and already discussed above, also apply to this statement from [REDACTED]. She provided no verifiable information regarding the events and circumstances of the applicant's residence in the United States beyond her initial meeting with her.

The director denied the application on August 4, 2006. The director acknowledged the medical records, plane ticket and other evidence submitted in response to the NOID, but noted that the applicant had failed to submit original documents. The director also questioned how the applicant was able to submit original envelopes when she had previously stated that she lost her passport and other documents in a house fire that occurred in March 1991. The director found "it does not appear feasible that the ink on the envelopes would be still fresh over all these years and would not even have any smell of fire smoke."

The director further stated that CIS was able to contact affiants [REDACTED] and [REDACTED] who could recall knowing the applicant for a long time, but "could not verify any proof of direct personal knowledge of the events being attested." The director concluded that the applicant failed to establish her eligibility for temporary residence under Section 245A of the Act.

On appeal, the applicant submits a letter dated August 25, 2006 from Greenwich Hospital, which indicates that the hospital only provides copies of original records. The applicant also submits her original Brazilian airlines plane ticket from August 1981, and several personal photographs taken in New York in January 1982, March 1984, and February 1987.

Upon review, the applicant has not established that she continuously resided in the United States for the duration of the requisite period. As is stated above, 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). The applicant has been given the opportunity to satisfy her burden of proof with a broad

range of evidence pursuant to 8 C.F.R. § 245a.2(d)(3). The applicant has provided some contemporaneous evidence in of her residence in the United States. However, the quality and quantity of this evidence, which consists of two medical records, one utility bill, a few photographs and several postmarked envelopes, is insufficient to establish that she continuously resided in the United States for the duration of the requisite period.

Furthermore, the applicant has submitted various statements from persons claiming to have known her since that period that are uniformly lacking in detail and probative value, and, at times, inconsistent with the applicant's own testimony. Finally, as discussed above, there are inconsistencies and gaps in the applicant's own testimony which have not been adequately explained. As such, the applicant cannot meet either the necessary continuous residency or continuous physical presence requirements for legalization pursuant to section 245A of the Act.

The absence of sufficiently detailed, consistent 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 inconsistent testimony and 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--*, *supra*. The applicant is, therefore, ineligible for Temporary Resident Status under section 245A of the Act on this basis.

Beyond the decision of the director, it is noted that even if the applicant had established that she resided in the United States for the duration of the requisite period, she would not be able to establish that such residence was continuous. The applicant stated on her Form I-687 that she was absent from the United States from March 1987 until May 1987. The record shows that she was issued a passport in Brazil on March 17, 1987 and that she first used this passport to enter the United States on May 9, 1987. Accordingly, she was absent from the United States for at least 52 days.

Applicants who are eligible for adjustment to Temporary Resident Status are those who establish that they entered the United States prior to January 1, 1982, and who have thereafter resided continuously in the United States in an unlawful status, and who have been physically present in the United States from November 6, 1986, until the date of filing the application. 8 C.F.R. § 245a.2(b). An applicant shall be regarded as having resided continuously in the United States if, at the time of filing no single absence from the United States has exceeded forty-five (45) days and the aggregate of all absences has not exceeded one hundred eighty (180) days between January 1, 1982 and the date of filing his or her application for Temporary Resident Status unless the applicant establishes that due to emergent reasons, his or her return to the United States could not be accomplished within the time period allowed. 8 C.F.R. § 245a.2(h)(1)(i). The applicant has not established that she was delayed from returning to the United States due to emergent reasons. Based on the applicant's absence from the United States from at least March 17, 1987 until May 9, 1987, she cannot meet either the continuous residence or continuous physical presence requirements set forth above. For these additional reasons, the application cannot be approved.

An application or petition that fails to comply with the technical requirements of the law may be denied by the AAO even if the Service Center does not identify all of the grounds for denial in the initial decision. *See Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd*. 345 F.3d 683 (9th Cir. 2003); *see also Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989)(noting that the AAO reviews appeals on a *de novo* basis).

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.