



U.S. Citizenship
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FILE:



Office: NEW YORK

Date: JUL 02 2008

MSC-05-237-10340

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, 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 failed to establish by a preponderance of the evidence that 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 under this section. Specifically, the director found 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 raised the issue of class membership in the decision. Since the application was considered on the merits, the director is found not to have denied the applicant's claim of class membership.

On appeal, counsel for the applicant stated that the applicant is eligible for temporary resident status. Specifically, counsel stated that the applicant provided a copy of an entry stamp indicating that she entered the United States in 1980, as well as verifiable affidavits.

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)(1).

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)(1) 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.

The issue in this proceeding is whether the applicant has furnished sufficient credible evidence to demonstrate that she resided in the United States for the duration of the requisite period. Here, the submitted evidence is not relevant, probative, and credible.

The record shows that the applicant submitted a Form I-687 application and Supplement to Citizenship and Immigration Services (CIS) on May 25, 2005. At part #30 where applicants were asked to list all residences in the United States since first entry, the applicant listed the following addresses during the requisite period: [REDACTED], Hempstead, New York from September to October 1980; [REDACTED] Brooklyn, New York from October 1980 to May 1985; and [REDACTED] Baldwin, New York from May 1985 to September 1988. At part #31 where applicants were asked to list all affiliations or associations, clubs, organizations, churches, unions, businesses, et cetera, the applicant listed the following associations during the requisite period: Dr. [REDACTED] from September 1980 to 1996; “(Allstate) Mr. [REDACTED]” from September 1980 to present; Baldwin Public Library from 1985 to present; and [REDACTED] from May 1986 to May 1987. At part #32 where applicants were asked to list all absences from the United States since entry, the applicant listed only the following trips during

the requisite period: Visits to England from July 1981 to August 1981 and April 1985 to May 1985. At part #33 where applicants were asked to list all employment in the United States since entry, the applicant listed the following positions during the requisite period: Companion for [REDACTED] from 1980 to 1985; and nanny/housekeeper for [REDACTED] from May 1985 to 1988.

The record includes a Biographic Information Form G-325A submitted to CIS and signed by the applicant, under legal penalties for knowing and willful falsification or concealment of a material fact, on December 12, 1994. The Form G-325A was submitted in connection with the Form I-130 Petition for Alien Relative submitted on the applicant's behalf by [REDACTED]. On the Form G-325A where applicants were asked to list their last address outside the United States of more than one year, the applicant listed [REDACTED], Essex, England from April 1974 to May 1985. As explained in the notice of derogatory information provided to the applicant by the AAO on April 2, 2008, this information conflicts with the applicant's statements on Form I-687 indicating that she resided in the United States between 1980 and 1985, and casts serious doubt on her claim to have resided in the United States throughout the requisite period. This statement also indicates that the applicant has made material misrepresentations and utilized documents in a fraudulent manner in an attempt to establish her residence within the United States for the requisite period.

In an attempt to establish her continuous unlawful residence in this country since prior to January 1, 1982, the applicant provided multiple documents. The applicant submitted several documents that do not contain her name or address and, as a result, fail to confirm that she resided in the United States during the requisite period. These include a certified mail receipt dated October 22, 1987; two cash receipts from Seedman's dated July 7, 1983 and August 1, 1983; a raffle ticket for a raffle presented by the Guayanese Nurses of America, Inc. for a drawing on January 8, 1983; and a receipt from Mercury Paint dated September 1, 1983. The applicant also submitted several documents that do not list her address and, therefore, do not confirm that she resided in the United States during the requisite period. These include a certificate from the Lucille Roberts Gold Card Club dated May 8, 1987; two receipts from [REDACTED] M.D. dated October 18, 1986 and June 8, 1987; a receipt that states, "DDC - course" and is dated March 17, 1987; a letter from [REDACTED]; and a receipt from Mercy Hospital dated October 31, 1986.

The applicant submitted two receipts from Consumers. The first receipt, dated September 20, 1985, lists the applicant's address as [REDACTED]. This information is inconsistent with the applicant's Form I-687 application, which indicates that she was living at the 1081 Cramer Court address from May 1985 to September 1988. As explained in the notice of derogatory information, this inconsistency calls into question the authenticity of this document and, as a result, casts doubt on the applicant's claim to have resided in the United States throughout the requisite period. The second receipt is dated January 2, 1987. This receipt constitutes some evidence that the applicant resided in the United States during January 1987. However, the inconsistency related to the first Consumers receipt casts some doubt on the authenticity of the second Consumers receipt, since the two receipts are very similar in appearance.

The applicant provided a color copy of three photographs. These photographs provide no means of identifying their subjects and the date the photographs were taken. Therefore, they carry no weight in establishing that the applicant resided in the United States during the requisite period.

The applicant submitted a copy of a Nautilus Membership Card listing a starting date of May 8, 1986 and an expiration date of May 9 of a year that is illegible. This document constitutes some evidence that the applicant resided in the United States during the period immediately surrounding May 8, 1986.

The applicant also provided a copy of a Certificate of Completion for a defensive driving course. This document lists her address as the [REDACTED] address, and it is dated March 19, 1987. This document constitutes some evidence that the applicant resided in the United States during the period immediately surrounding March 19, 1987.

The applicant submitted an original I-94 Departure Record, which contains an admission stamp indicating that she was admitted to the United States on May 25, 1985 in B-2 status. This document constitutes evidence that the applicant was present in the United States on May 25, 1985.

The applicant also submitted a photocopy of pages of her passport issued in the United Kingdom. The record indicates that the original of her passport was not seen by the immigration officer who accepted the photocopy of the passport pages. The fact that the applicant did not present her original passport to the immigration officer casts some doubt on her claim to have resided in the United States during the requisite period.

The applicant also provided a letter from [REDACTED], consular assistant with the British Consulate-General in New York, dated March 4, 1992. This letter confirmed that the applicant had reported the loss of her passport # [REDACTED] issued in Peterborough on April 26, 1977. The applicant later submitted a color photocopy of her passport # [REDACTED]. The fact that the applicant was able to obtain a color photocopy of a passport that she claimed to have lost prior to March 4, 1992 casts doubt on the authenticity of this letter.

In support of her Form I-687 application, the applicant also provided multiple attestations. She provided several attestations that fail to state that she resided in the United States during the requisite period. These include the attestations from [REDACTED]; [REDACTED]; and the attestations from [REDACTED] dated March 1 and March 7, 2006.

The applicant provided multiple attestations in which dates or other relevant information appeared to have been altered by applying liquid paper or another method to eradicate the original text, and then replacing the original text with new text. These include the attestations from [REDACTED] who identified herself as the applicant's mother; [REDACTED] and [REDACTED]. As stated in the notice of derogatory information, the

alterations in these attestations cast doubt on the authenticity of the attestations and call into question the applicant's claim to have resided in the United States throughout the requisite period.

The applicant provided a notarized declaration from [REDACTED] which states that the declarant has "known [the applicant] as a family friend since she moved to the U.S. since 1984 until present [the applicant] currently live [sic] in Brooklyn . . ." This information is inconsistent with the Form I-687, which indicates that the applicant began residing in the United States in September 1980, rather than in 1984. This inconsistency calls into question whether the declarant can actually confirm that the applicant resided in the United States during the requisite period.

The applicant provided a notarized declaration from [REDACTED], who identified himself as her cousin. The declarant stated that he has known and associated with the applicant since 1980 and that they have visited each other many times over the years. The declarant stated that the applicant lived at the [REDACTED] address from 1980 to 1985, and then lived in [REDACTED] in Washington, DC, and Eastern Parkway in Brooklyn. This declaration fails to provide detail regarding the applicant's frequency of contact with the declarant and her absences from the United States during the requisite period. As a result, this declaration is found to lack sufficient detail to confirm that the applicant resided in the United States during the requisite period.

The applicant provided a notarized declaration from [REDACTED] dated April 4, 2006, which states that the declarant has known the applicant for 37 years. The declarant stated that the applicant has been living in Brooklyn, New York since 1980. She also stated that the applicant lived at the following addresses: [REDACTED], Brooklyn, October 1980 to April 1985; Baldwin, New York from May 1985 to September 1988; and later in Elmhurst, Queens and Washington DC. This declaration is found to be internally inconsistent, since it states both that the applicant resided in Brooklyn since 1980 and that she also resided in Baldwin, New York from October 1980 to April 1985. This inconsistency casts some doubt on the declarant's ability to confirm that the applicant resided in the United States during the requisite period. In addition, this declaration fails to provide detail regarding how the declarant met the applicant, their frequency of contact, and whether the applicant was absent from the United States during the requisite period. As a result, this declaration is found to lack sufficient detail to confirm that the applicant resided in the United States during the requisite period.

The applicant also provided an affidavit from [REDACTED] dated April 4, 2006, which states that the applicant has been living in the United States from 1980 to present. The affiant stated that she is aware that the applicant resided at the [REDACTED] address between September and October 1980. She stated that she and the applicant lost contact briefly and regained it in April 1985, when the applicant was living at the [REDACTED] address. She stated that she and the applicant have maintained contact over the years. This affidavit indicates the affiant does not have first-hand knowledge that the applicant resided in the United States between November 1980 and March 1985. In addition, this affidavit lacks detail regarding how the applicant and the affiant met and their frequency of contact during the requisite period. As a result, this declaration is found to lack

sufficient detail to confirm that the applicant resided in the United States during the requisite period.

The record also includes an additional Form I-687 signed by the applicant under penalty of perjury and dated May 7, 1991. At part #33 where applicants were asked to list all residences in the United States since first entry, the applicant listed only [REDACTED], Long Island, from August 1980 to September 1989 during the requisite period. This is inconsistent with the current Form I-687, where the applicant indicated she lived at three addresses prior to the end of the requisite period. At part #34 where applicants were asked to list all affiliations or associations with clubs, organizations, churches, unions, businesses, et cetera, the applicant stated, "none." This is inconsistent with her current Form I-687 where she listed four affiliations or associations during the requisite period. At part #35 where applicants were asked to list absences from the United States since entry, the applicant listed only one trip to England from April to May 1985 to visit relatives. This is inconsistent with the information provided on her current Form I-687, where she indicated she also was absent from the United States from July to August 1981. Lastly, at part #36 where applicants were asked to list all employment in the United States since first entry, the applicant listed the following positions: Home attendant for [REDACTED] from "I/82 to I/85 [sic]" and office receptionist for E & M Construction Co. from "I/85 to II/88 [sic]." This is also inconsistent with the applicant's current Form I-687, where she indicated she was employed as a nanny/housekeeper from May 1985 to 1988 rather than as an office receptionist. These inconsistencies call into question whether the applicant actually resided in the United States during the requisite period. These inconsistencies also indicate that the applicant has made material misrepresentations and utilized documents in a fraudulent manner in an attempt to establish her residence within the United States for the requisite period.

Review of the record indicates that the applicant has 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 applicant has submitted evidence in support of her application that does not relate to the requisite period, fails to confirm that she resided in the United States during the requisite period, or does not conform to regulatory standards. In addition, she has submitted applications and supporting documents containing contradictory information.

The fact that the applicant has submitted applications and supporting documents to CIS containing contradictory information establishes that she made material misrepresentations and utilized documents in a fraudulent manner in an attempt to establish her residence within the United States for the requisite period. By engaging in such an action, the applicant has seriously undermined her own credibility as well as the credibility of her claim of continuous residence in this country for the requisite period. By submitting contradictory applications and other documents, the applicant has made a material misrepresentation of her dates of residence to gain the benefit of temporary resident status, thus casting doubt on her eligibility for this visa classification.

In denying the application the director noted 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.

On appeal, counsel for the applicant stated that the applicant is eligible for temporary resident status. Specifically, counsel stated that the applicant provided a copy of an entry stamp indicating that she entered the United States in 1980, as well as verifiable affidavits.

On April 2, 2008, the AAO issued a notice to the applicant to inform her of the above outlined derogatory information and provide the applicant with an opportunity to respond before the final decision was rendered.

In response to the notice, counsel for the applicant provided a statement. The applicant also provided an affidavit, as well as a color photocopy of her passport, a statement from the Internal Revenue Service, documents from Nassau Community College, and a document from Queens Medical Laboratory.

Counsel's statement indicated that the applicant returned to England briefly in 1985, and she listed her address in England as the last place she resided for more than one year outside the United States. Counsel stated that, clearly, the applicant listed her address in England as her domicile, because it is not disputed that the applicant entered the United States prior to the requisite period, in 1980. **The applicant reiterated this explanation in her affidavit. This explanation is unreasonable under the circumstances. As stated above, on Form G-325A, the applicant was asked to list her last address outside of the United States of more than one year. The applicant listed the [REDACTED], Essex, England address from April 1974 to May 1985. The Form G-325A is dated July 29, 1995. It is unreasonable that the applicant would have listed the dates of April 1974 to May 1985 if she intended to list her address in England as her domicile only, rather than listing either April 1974 to 1980 when she allegedly entered the United States or to 1995, when the Form G-325A was signed.**

Counsel also indicated that the applicant is unsophisticated, and that the conclusion that the applicant continued to reside in England in 1985 casts doubts on the credibility of the I-94 card and visa stamp documentation indicating that the applicant entered the United States in 1980, 1981, and 1985. This explanation is also unreasonable under the circumstances. It is noted that the passport copy submitted by the applicant includes stamps indicating she entered the United States on August 4, 1981 (page 8); May 25, 1985 (page 8); and September 13 of a year that is illegible (page 9). The applicant's evidence of multiple entries into the United States, when considered together with her statements on Form G-325A and other documentation that contradicts her claim of continuous residence, tends to show that the applicant visited the United States multiple times rather than that she resided in the United States continuously from 1980 until the end of the requisite period. Counsel stated that, without more, a valid I-94 card showing admission on a certain date constitutes evidence that the applicant entered and remained

continuously in the United States. However, more evidence exists in the record than merely a valid I-94 card. This additional evidence, including the Form G-325A and other contradictory evidence provided by the applicant, casts serious doubt on the applicant's claim to have resided in the United States continuously from 1980 until the end of the requisite period.

Counsel also indicated that the director erroneously provided the reasonable doubt standard to the evidence submitted by the applicant. The director is found to have properly applied the preponderance of the evidence standard in the decision. As 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). 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 had erred in the application of this standard, the error would have been harmless. The AAO conducts a *de novo* review, evaluating the sufficiency of the evidence in the record according to its probative value and credibility as required by the regulation at 8 C.F.R. § 245a.2(d)(6). The AAO maintains plenary power to review each appeal on a *de novo* basis. 5 U.S.C. § 557(b) ("On appeal from or review of the initial decision, the agency has all the powers which it would have in making the initial decision except as it may limit the issues on notice or by rule."); *see also*, *Janka v. U.S. Dept. of Transp., NTSB*, 925 F.2d 1147, 1149 (9th Cir. 1991). The AAO's *de novo* authority has been long recognized by the federal courts. *See, e.g. Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989).

Counsel stated that the inconsistencies identified in the record, which related to the applicant's addresses, are merely a distraction. Counsel indicated that other evidence existed in the record that supported the applicant's claim of residence during the periods to which the inconsistencies related. This explanation is also found to be unsatisfactory. Credible evidence that the applicant entered the United States multiple times does not, alone, overcome the inconsistencies among the documents provided by the applicant. Inconsistencies relating to the listing of the applicant's address on the documents she provided cast doubt on the applicant's claim of residence. These inconsistencies, when considered with the credible documentation provided by the applicant indicating that she entered the United States multiple times during the 1980s, tend to show that the applicant visited the United States but did not reside in this country continuously throughout the requisite period. The applicant has failed to provide reasonable explanations for the inconsistencies identified in the record, as well as additional documentation to substantiate these explanations. The applicant also stated in her affidavit that she did not remember some of the information necessary for her Form I-687, she had not realized that her affiants would need to provide details regarding their relationships with her, and she has resided in the United States since 1981. The information provided by the applicant is insufficient to overcome the inconsistencies identified in the record.

Counsel also stated that the AAO failed to call the British Consulate to investigate the authenticity of the letter. As stated above, the applicant has the burden of proving by a preponderance of the evidence that 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. 8 C.F.R. § 245a.2(d)(5). Counsel indicated that the applicant misplaced her passport “some time in the early 1990s or late 1980s” and that the passport was found “sometime in 2006 when [the applicant] opened some old personal files in her house. It was at that time, present counsel made a colored photocopy of the passport pages to buttress the point that [the applicant] undoubtedly made entry into the United States prior to 1982.” Without documentary evidence to support the claim, the assertions of counsel will not satisfy the applicant's burden of proof. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). The applicant stated in her affidavit that she misplaced her passport, but she failed to indicate whether the passport had subsequently been recovered. The information provided on appeal is found to be insufficient to overcome the inconsistency related to the applicant's earlier claim to have lost her passport. In addition, examination of the color photocopies of the applicant's passport shows that page 6 of the passport contains stamps indicating that the applicant was admitted to the Republic of Trinidad and Tobago on February 11, 1983; departed from there on March 4, 1983; was admitted again on March 10, 1983; and departed again on March 15, 1983. On the Form I-687 where applicants were asked to list all absences from the United States since entry, the applicant failed to list any absences during 1983. This inconsistency calls into question the applicant's prior statements regarding her absences from the United States and, as a result, casts doubt on her claim to have resided in the United States throughout the requisite period. The stamps showing the applicant's absences from the United States during the requisite period, which were revealed through examination of the applicant's passport, provide a likely explanation for the applicant's prior reluctance to submit her passport for examination at the time she initially submitted her Form I-687 application. The inconsistencies, as well as the applicant's failure to submit her passport for examination and subsequent lack of a credible explanation for this failure, all cast doubt on the applicant's claim to have resided in the United States throughout the requisite period.

Lastly, counsel stated that the applicant had submitted sufficient evidence to meet her burden of establishing that she resided in the United States throughout the requisite period, even without the declarations provided by the applicant. Counsel indicated that the inconsistencies identified in the record are immaterial and do not impeach the other documents. As specified above, the inconsistencies identified in the record all relate closely to the applicant's claim to have resided continuously in the United States throughout the requisite period, and cast serious doubt on this claim. The credible evidence provided by the applicant is insufficient to overcome these inconsistencies and establish her continuous residence in the United States throughout the requisite period.

On appeal, the applicant provided a letter from the Internal Revenue Service dated December 31, 1987 and addressed to the applicant at the [REDACTED] address. This document tends to show that the applicant was residing in the United States during December 1987.

The applicant submitted a transcript from Nassau Community College in Garden City, New York. The document lists the applicant's name and provides the [REDACTED] address. The transcript indicates that the applicant entered the community college in September 1987 and provides a semester average as of the date of January 1988. The transcript indicates that the applicant completed a course in Preparatory English. This document tends to show that the applicant resided in the United States from September 1987 to January 1988. The applicant also provided a student identification card from Nassau Community College for spring 1988. This document tends to show that the applicant resided in the United States during spring 1988.

Lastly, the applicant provided a copy of an invoice from Queens Medical Laboratory dated October 22, 1986. The invoice refers to a test that was taken on October 18, 1986. The invoice lists the applicant's name and provides the [REDACTED] address. This document tends to show that the applicant resided in the United States during October 1986.

In summary, the record contains documents that do not contain the applicant's name or address, are inconsistent with the information provided by the applicant on her current Form I-687, fail to state that the applicant resided in the United States during the requisite period, appear to have been altered, or lack sufficient detail; and photographs that contain no means of identifying their subjects or date. The record also contains a form and other documents submitted on the applicant's behalf that conflict with her claim of continuous residence in the United States throughout the requisite period. As a result, the applicant has been found to have used documents in a fraudulent manner and made material misrepresentations.

Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). The applicant provided insufficient supporting evidence to overcome the finding that she used documents in a fraudulent manner and made material misrepresentations.

The absence of sufficiently detailed supporting documentation and the existence of derogatory information that establishes the applicant used documents in a fraudulent manner and made material misrepresentations seriously undermine the credibility of the supporting documents, as well as the credibility of the applicant's claim of residence in this country for the requisite period. Pursuant to 8 C.F.R. § 245a.2(d)(3), the inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. The applicant has failed to submit sufficient credible documentation to meet her burden of proof in establishing that she has resided in the United States since prior to January 1,

1982 to May 4, 1988 by a preponderance of the evidence as required under both 8 C.F.R. § 245a.2(d)(3) and *Matter of E- M-*, 20 I&N Dec. 77 (Comm. 1989).

Given the applicant's reliance upon supporting documents with minimal or no probative value or that have been found to be fraudulent to demonstrate her residence for a substantial portion of the requisite period, 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 May 4, 1988 as required under section 245A(a)(2) of the Act. The applicant is, therefore, ineligible for temporary resident status under section 245A of the Act on this basis.

By filing the instant application and submitting falsified documents, the applicant has sought to procure a benefit provided under the Act through fraud and willful misrepresentation of a material fact. Because the applicant has failed to provide independent and objective evidence to overcome, fully and persuasively, our finding that she submitted falsified documents, we affirm our finding of fraud.

ORDER:

The appeal is dismissed with a finding of fraud. This decision constitutes a final notice of ineligibility.