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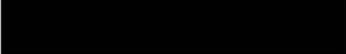
U.S. Citizenship
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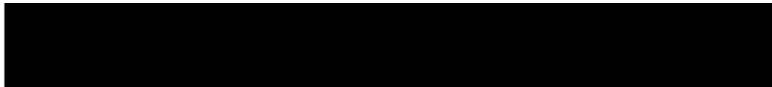
Office: PHILADELPHIA

Date: JUL 09 2008

MSC-06-102-27221

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:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits Center. If your appeal was sustained, or if your case was remanded for further action, you will be contacted. If your appeal was dismissed or rejected, 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, Philadelphia. 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 failed to establish, by a preponderance of the evidence, continuous unlawful residence and physical presence during the requisite periods.

On appeal, the applicant has submitted copies of previously submitted documentation but has not submitted new evidence.

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 applicant has not met her burden of proof.

The record shows that the applicant submitted a Form I-687 application and Supplement to Citizenship and Immigration Services (CIS) on January 10, 2006. The applicant submitted the following in support of her application:

- Declaration of [REDACTED] dated November 7, 2002. The declaration is not notarized. The declarant states that she has been friends with the applicant for seventeen years. The statement lacks details of the declarant’s relationship with the applicant such as how the declarant dates her initial acquaintance with the applicant or the nature and frequency of her contact with the applicant. This statement therefore has minimal weight as evidence of the applicant’s residence in the United States during the requisite period.
- Declaration of [REDACTED] dated November 6, 2002. The declaration is not notarized. The declarant states that he has known the applicant since 1986, and that the applicant rented a room from him from March 1987 until February 1990. The declarant does not indicate under what circumstances he met the applicant in 1986 how he dates his initial acquaintance with the applicant, or how frequently he had contact with the applicant. Given these deficiencies, this statement has minimal probative value in supporting the applicant’s claim of residence in the United States during the requisite period.
- Declaration of [REDACTED] dated November 16, 2002. The declaration is not notarized. The declarant states that she has known the applicant since 1981 and that the applicant rented the declarant’s basement from October 1981 until March 1987. The declarant states that she also worked with the applicant as a housekeeper. The declarant does not indicate under what circumstances she met the applicant in 1981 or how she dates her initial acquaintance with the applicant. The declaration lacks details that would lend credibility to the declarant’s claim of having a twenty seven year friendship with the applicant. Given these deficiencies,

this statement has minimal probative value in supporting the applicant's claim of residence in the United States during the requisite period.

- Declaration of [REDACTED] dated November 7, 2002. The declaration is not notarized. The declarant states that he has known the applicant since 1981 and that the applicant rented the declarant's basement from October 1981 until March 1987. The declarant also states that the applicant worked with his wife as a housekeeper. The declarant does not indicate under what circumstances he met the applicant in 1981 or how he dates his initial acquaintance with the applicant. Given these deficiencies, this statement has minimal probative value in supporting the applicant's claim of residence in the United States during the requisite period.

The applicant also submitted copies of four envelopes. One of these was purportedly sent to the applicant from an address in Colombia in 1984, two were sent by the applicant to an address in Colombia in 1981, and one was sent by the applicant to an address in Colombia in 1981.

The evidence must be evaluated not by the quantity of evidence alone but by its quality. None of the affiants indicated how they dated their acquaintance with the applicant, how they met the applicant or how frequently they saw the applicant. Although the applicant states on appeal that she has previously submitted copies on rent receipts and pay stubs, these documents do not appear in the record. The applicant has not explained why she has been unable to provide copies of rent receipts and pay stubs for this application.

The absence of sufficiently detailed documentation to corroborate the applicant's claim of continuous residence for the entire requisite period detracts from the credibility of the application. 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 for the requisite period. 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.