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U.S. Citizenship
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FILE: [REDACTED] MSC 05 235 14493

Office: LOS ANGELES

Date: JUN 16 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 National Benefits Center. If your appeal was sustained, or if the matter 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, Los Angeles, California. The appeal will be dismissed.

The district director denied the application because the applicant failed to demonstrate credibly that she entered the United States before January 1, 1982, and thereafter resided in a continuous unlawful status. On appeal, the applicant asserted that the evidence submitted establishes her eligibility.

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 was filed. Section 245A(a)(2) of the Immigration and Nationalities Act (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 confirm 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.

As to the requirement of continuous residence in the United States from January 1, 1982 through the date the application is filed, the regulation at 8 C.F.R. § 245a.2(h)(1) provides that an applicant shall be regarded as having resided continuously if no single absence during the salient period was longer than 45 days and the aggregate of all absences does not exceed 180 days.

The applicant has the burden of proving by a preponderance of the evidence that he or she resided continuously in the United States from January 1, 1982 until he or she filed his or her application, was continuously physically present in the United States from November 6, 1986 until the date of filing the application, 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). To meet his or her burden of proof, an applicant must provide evidence of eligibility apart from the applicant's own testimony. 8 C.F.R. § 245a.2(d)(6).

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 applicant 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 has satisfied the standard of proof. *See U.S. v. Cardozo-Fonseca*, 480 U.S. 421 (1987) (defining "more likely than not" as a greater than 50 percent probability of something occurring). If the director can articulate a material doubt, it is appropriate for the director to either request additional evidence or, if that doubt leads the director to believe that the claim is probably not true, deny the application.

The regulation at 8 C.F.R. § 245a.2(d)(3)(i) states that letters from employers attesting to an applicant's employment must: provide the applicant's address at the time of employment; identify the exact period of employment; show periods of layoff; state the applicant's duties; declare whether the information was taken from company records; and identify the location of such company records and state whether such records are accessible or in the alternative state the reason why such records are unavailable.

The applicant submitted the instant Form I-687 application on May 23, 2005 under the name [REDACTED]. On that application the applicant stated that she had last entered the United States on October 20, 1981. She stated that she had lived at [REDACTED], Santa Ana, California, during October 1981; and at [REDACTED], Mendota, California from November 1981 to December 1988. The applicant also provided addresses where she resided during later periods.¹

¹ On a Form EOIR 42B Application for Asylum and for Withholding of Removal that she submitted on February 22, 2005 the applicant provided a residential history that is consistent with that on the Form I-687, though it only covers periods after the period of requisite residence stipulated by section 245A(a)(2) of the Act. The record also contains an undated G-325 Biographic Information form and a previous Form EOIR 42B application that contain residential histories for periods after the period of requisite residence and which conflict with the history on the Form I-687 application. The applicant submitted tax returns and tax documents with addresses that do not correspond with those shown on the Form I-687 for periods after the period of requisite residence. Because the conflicting portions of the various residential histories pertain to periods after the period of requisite residence, however, and are

The record contains:

- a copy of a Mexican birth certificate and an English translation,
- a copy of a birth certificate issued by Orange County, California,
- a copy of an executed marriage license,
- a copy of a marriage certificate,
- 1998, 1999, and 2000 Form 1040 U.S. Individual Income Tax Returns,
- an employment verification letter dated May 12, 2005,
- three form affidavits
- two Forms EOIR 42B,

and

- a G-325 Biographic Information form.

The record contains no other evidence pertinent to the applicant's continuous residence or continuous physical presence in the United States during the salient periods.

The Mexican birth certificate submitted shows that on August 18, 1970 [REDACTED] was born² to [REDACTED] and [REDACTED] in Tlaucingo, Puebla, Mexico.

The California birth certificate submitted shows that on July 14, 1992 [REDACTED] was born to [REDACTED] and the applicant, who was then using the name [REDACTED].

The executed marriage license shows that on February 28, 2001 [REDACTED] married [REDACTED] in Orange County, California. That license further states that the groom was born on August 28, 1970, the son of [REDACTED] and [REDACTED]. The marriage certificate submitted shows that [REDACTED] and [REDACTED] were married on February 27, 2001. The significance of the date discrepancy is unknown to this office.

The record contains two 1998, 1999, and 2000 Form 1040 U.S. Individual Income Tax Returns.

not directly relevant to the applicant's continuous residence in the United States during the requisite period, this office will not dwell on the discrepancies.

² The translation misstates the year of birth as 1969.

One of the 1998 tax returns submitted is that of [REDACTED] and shows that during that year he claimed his son, [REDACTED], and the applicant, who was not yet his daughter-in-law, as dependents. This office notes that the applicant's birth certificate indicates that she turned 29 years old during 1998. How the elder [REDACTED] was able to claim the applicant as his dependent child is unclear to this office.³

The other 1998 tax return submitted is also the tax return of [REDACTED], and was submitted to support a Form EOIR-42B Application for Asylum and for Withholding of Removal that the applicant previously filed. [REDACTED] filed that return, however, jointly with the applicant, as husband and wife. They took a deduction for [REDACTED]. They described [REDACTED]'s relationship to them as "son."

[REDACTED] contradictions and inconsistencies spring from a comparison of those two tax returns to each other and to the other evidence in the record. The applicant has claimed to be married to [REDACTED] and that [REDACTED] was their son, or at least the son of one of them. The applicant has claimed to marry [REDACTED], whose father is [REDACTED] not [REDACTED]. Those apparently discrepant facts are sufficient to raise the issue of the reliability and credibility of the evidence.

Even more difficult to reconcile, however, is the fact that the instant applicant, [REDACTED], submitted one version of [REDACTED]'s 1998 tax return in which she claimed to be his wife, and another in which she claimed she was not his wife. Even if the marital status of [REDACTED] and the applicant could be shown to be a colorable issue, the fact remains that only one of those 1998 tax returns, at the most, can be legitimate. At least one of those returns appears to be a bogus return produced for fraudulent submission in support of an application or petition for an immigration benefit.

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. Further, the applicant must resolve any inconsistencies in the record with competent, independent, objective evidence. Attempts to explain or reconcile such inconsistencies, absent competent objective evidence sufficient to demonstrate where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (Comm. 1988).

³ A dependent qualifies for a tax credit if, *inter alia*, (1) he or she is a son, daughter, foster child, brother, sister, stepbrother, stepsister, or a descendant of any of them (for example, a grandchild, niece, or nephew) of the taxpayer (not girlfriend, fiancée, or spouse), and (2) is under 19 at the end of the tax year, or under 24 and a student, or is any age and is totally and permanently disabled. See Form 1040 U.S. Individual Income Tax Return Instructions, Page 15. As the applicant later married the taxpayer's son they are not, presumably, closely related. Further, as the applicant was then over 24 years old, she would not constitute a legitimate exemption unless she was permanently and totally disabled. This office notes that other evidence in the record, including the Form G-325, and the Form EOIR 42 filed on March 20, 2001, indicates that the applicant worked during years subsequent to 1998.

The record contains joint 1999 and 2000 returns that represent [REDACTED] and the applicant, as husband and wife. During both years they again took a deduction for Agustin Pastor, whom they again described as their son.

The record also contains joint 1999 and 2000 returns that represent [REDACTED] and the applicant as husband and wife, and in which they claim [REDACTED] as their son. The values shown for different line items clearly show that these are essentially the same returns as those 1999 and 2000 returns that represent [REDACTED] and the applicant, as husband and wife, but with a taxpayer's name and social security number changed, and some other changes.

Again, absent any reconciliation, these competing returns indicate that fraudulent documentation has been filed in this case, and the evidentiary value of all of the evidence submitted in this case is greatly diminished.

The May 12, 2005 employment verification letter is on the letterhead of [REDACTED] Farm Labor Contractor, and is notarized. It states that the applicant worked for him seasonally from November 1981 through December 1988 for an estimated total of 100 days each year. The affiant stated that he was unable to provide payroll records because those from that era are outdated and have been destroyed. He stated, however, that he was able to attest to her employment because they have yearly personal contacts and he recognized her. The affiant did not state how, without payroll records, he was able to pinpoint the date the applicant began working for him and when she ceased to work for him.

Contrary to the requirements of 8 C.F.R. § 245a.2(d)(3)(i) that employment verification letter from [REDACTED] does not state the applicant's home address during that period. That employment verification letter will therefore be accorded less weight than it would if it conformed to the requirements of 8 C.F.R. § 245a.2(d)(3)(i), but it will be considered pursuant to 8 C.F.R. § 245a.2(d)(3)(vi)(L).

The three form affidavits submitted do not state when the applicant entered the United States or the periods during which she remained here. They are of little value in demonstrating that the applicant resided in the United States continuously during the requisite period.

The applicant filed the other Form EOIR 42B in the record on February 22, 2005. That application confirms that the applicant first entered the United States during February 1988 without inspection at San Ysidro.

The record contains a G-325 Biographic Information form pertinent to the applicant. That form states that the applicant's last address outside the United States was in the city of Puebla, in the state of Puebla, in Mexico, from August 1969 to February 1988.⁴

⁴ The applicant's birth certificate shows that she was born on August 18, 1970, which contradicts the assertion that she lived in Puebla, or anywhere else, during 1969.

In the Notice of Decision, dated June 28, 2006, the director found that the applicant had failed to demonstrate her continuous residence in the United States in an unlawful status from January 1, 1982 until she filed her application and had failed to establish that she was continuously physically present in the United States from November 6, 1986 until the date of filing the application. In so finding the director relied on the information taken from the Form G-325 pertinent to the applicant.

The director also stated that, if the applicant began working for [REDACTED] during November 1981 she was then 12 years old. The director, in making that statement, was apparently relying on a misstatement of the applicant's birth date on the translation of her birth certificate. In fact, if the applicant's birth certificate correctly states that she was born on August 18, 1970, and if she began working for [REDACTED] during November 1981, she was then 11 years old.

On appeal, the applicant urged that the evidence shows that she has been in the United States during the required period. She stressed the letter from [REDACTED] in support of that assertion, but did not address the fact that she claims to have been a farm laborer at the age of 11 years.

Not all of the assertions in the applicant's statement on appeal appear to relate to the instant case. Although the statement is rambling and disjointed, it appears to assert that the applicant was absent from the United States during February of 1988 but for less than 30 days.

The applicant also appeared to assert that the attorney who represented her in the withholding of removal action intentionally misstated her initial entry into the United States because she only needed ten years presence to qualify for withholding of removal. The applicant stated that she was therefore the victim of inadequate representation.

In reviewing the record, this office uncovered evidence adverse to the applicant's claim that was not mentioned in the decision of denial. Therefore, on April 2, 2008 this office sent the applicant a notice of that adverse evidence. The body of that letter read, in pertinent part, including footnotes, as follows:

During the adjudication of your appeal, information has come to light that seriously compromises the credibility of your claims. Based upon this information, the AAO intends to dismiss your appeal. Pursuant to Citizenship and Immigration Services (CIS) regulations at 8 C.F.R. § 103.2(b)(16)(i), we hereby notify you of this derogatory information and provide you with an opportunity to respond before we render our final decision.

On the Form I-687 application, you stated that you have lived in the United States since October 1981. The record also contains three Forms EOIR-42B Application for Cancellation of Removal that you previously filed. On one of those forms you stated that you first entered the United States during February 1988. On the other two forms you stated that you first entered the United States on March 15, 1988.

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 visa petition. 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, 591-92 (BIA 1988). Please explain the conflicting dates provided for the date of your first entry into the United States and provide competent, objective evidence in support of your explanation.

Further, in support of the instant petition, you submitted what purports to be the 1998 Form 1040 U.S. Individual Income Tax Return of [REDACTED] social security number [REDACTED] filing as a single head of household. On that return he claimed his son, [REDACTED] as an exemption. He also claimed you as an exemption.⁵

The record contains another 1998 tax return that also purports to be that of [REDACTED]. That return was submitted to support a Form EOIR-42B. [REDACTED] filed that return, however, jointly with you, the applicant, [REDACTED] as husband and wife. Comparison of those two 1998 returns makes clear that they are essentially the same return, except that in one you appear as a dependent child of [REDACTED] and the other represents that you are his wife. Some pages of those two returns may be missing.

Further, the record contains two different 1999 returns, and two different 2000 returns.

One of the 1999 returns purports to have been filed jointly by you and [REDACTED] as husband and wife. On that return you claim [REDACTED] as your son. You filed that return in support of the instant petition.

You filed the other 1999 return in the record in support of your Application for Cancellation of Removal. That 1999 return purports to have been filed jointly by you

⁵ A dependent qualifies for a tax deduction if, *inter alia*, (1) he or she is a son, daughter, foster child, brother, sister, stepbrother, stepsister, or a descendant of any of them (for example, a grandchild, niece, or nephew) of the taxpayer (The girlfriend or fiancée of the taxpayer's child, for instance, does not qualify.), and (2) is under 19 at the end of the tax year, or under 24 and a student, or is any age and is totally and permanently disabled.

A marriage license and a marriage certificate in the record appear to show that you later married [REDACTED], from which this office gathers that you and [REDACTED] are not apparently closely related. Further, this office notes that a birth certificate in the record indicates that you turned 29 years old during 1998. Because you were then over 24 years old, you would not constitute a legitimate exemption unless you were permanently and totally disabled. How the elder [REDACTED] was able to claim you as his dependent child is unclear to this office.

and [REDACTED] as husband and wife. Comparison of the two returns makes clear that they are essentially identical, except that one purports to have been jointly filed by you and your husband, [REDACTED] social security number [REDACTED], and the other purports to have been jointly filed by you and your husband, [REDACTED] social security number [REDACTED]. Some other line items have also been altered. Some pages of those two returns may be missing.

One of the 2000 returns submitted again purports to have been filed jointly by you and [REDACTED] or as husband and wife. You filed that return in support of the instant petition.

You filed the other 2000 return in support of your Application for Cancellation of Removal. That 2000 return purports to have been filed jointly by you and [REDACTED] as husband and wife. Comparison of the two returns makes clear that they are essentially identical, except that one purports to have been jointly filed by you and your husband [REDACTED], social security number [REDACTED] and the other purports to have been jointly filed by you and your husband, [REDACTED], social security number [REDACTED]. Some other line items have also been altered. Some pages of those two returns may be missing.

Again, pursuant to *Matter of Ho*, 19 I&N Dec. 582, 591-92, 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 visa petition, and the applicant must resolve any inconsistencies in the record by independent objective evidence. Please explain the discrepancies between the various returns submitted and provide objective evidence in support of your explanation.

Further still, section 212(a)(6)(C) of the Act provides:

Misrepresentation. – (i) In general. – Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act is inadmissible.

By filing the instant petition and submitting the fraudulent evidence described above, you appear to have sought to procure a benefit provided under the Act through fraud and willful misrepresentation of a material fact. Unless you are able to provide independent and objective evidence to overcome, fully and persuasively, our above findings, the AAO will dismiss your appeal and enter a formal finding of fraud into the record. While you may choose to withdraw your appeal, this will not prevent a finding that you have sought to procure immigration benefits through fraud and willful misrepresentation of a material fact, and this matter shall be referred to the U.S. Attorney for possible prosecution. *See* 8 C.F.R. § 245a.2(t)(4).

If you choose to contest the AAO's findings, you must offer substantial evidence from credible sources addressing, explaining, and rebutting the discrepancy described above. The regulation at 8 C.F.R. § 103.2(b)(16)(i) does not specify the amount of time afforded to an applicant or petitioner to respond to derogatory information. We consider 45 days to be ample time for this purpose. Therefore, you are hereby afforded 45 days from the date of this letter in which to respond to this notice. If you do not submit such evidence within the allotted 45-day period, the AAO will dismiss your appeal. If you choose to respond, please submit your response to the address shown on the first page of this letter. Also, please reference your file number, A93 441 084, in your response.

Because the derogatory information concerns falsified documents, we will not accept any photocopied documentation as evidence to overcome the above derogatory information. Pursuant to 8 C.F.R. § 103.2(b)(5), we have the discretion to request the originals of any photocopies submitted. We reiterate that, pursuant to *Matter of Ho, supra*, you cannot overcome the above findings simply by offering a feasible explanation.

Also, please submit complete IRS certified copies of your tax returns beginning with the first U.S. tax return you filed and continuing through 2004. This office wishes to emphasize that the tax returns you submit must be complete and must be certified by IRS to be accurate representations of the returns you actually submitted to IRS during the salient years.

Further still, this office notes that, on appeal, you indicated that some discrepancies in the record were the result of ineffective representation by counsel, and that, at the urging of counsel, you falsely claimed to have first arrived in the United States on a date other than that date on which you actually arrived.

Any appeal or motion based upon a claim of ineffective assistance of counsel requires: (1) that the claim be supported by an affidavit of the allegedly aggrieved respondent setting forth in detail the agreement that was entered into with counsel with respect to the actions to be taken and what representations counsel did or did not make to the respondent in this regard, (2) that counsel whose integrity or competence is being impugned be informed of the allegations leveled against him and be given an opportunity to respond, and (3) that the appeal or motion reflect whether a complaint has been filed with appropriate disciplinary authorities with respect to any violation of counsel's ethical or legal responsibilities, and if not, why not. *Matter of Lozada*, 19 I&N Dec. 637 (BIA 1988), *aff'd*, 857 F.2d 10 (1st Cir. 1988). The record contains no indication that you have complied with those requirements. This office requests that, if you wish your assertion pertinent to ineffective counsel to be considered, you comply with those requirements.

In response the applicant submitted a letter dated May 12, 2008. In that letter the applicant stated that [REDACTED] and his staff prepared the instant application, and that she signed the application

without knowledge of its contents. The applicant did not clarify the year during which she entered the United States but stated that if there were any discrepancies between the instant application and the documents submitted in its support and her original application and the documents submitted in its support, those discrepancies are the fault of [REDACTED]. This office observes that the instant application contains no indication that [REDACTED] prepared it, or that anyone other than the applicant prepared it, although it contains a section provided for just such an acknowledgement. Further, the applicant did not provide the requested independent, objective evidence to demonstrate when she actually entered the United States, nor even clarify when she claims to have entered.

Further, in the notice of adverse evidence the applicant was informed that her claim of ineffective representation would not be considered unless she (1) provided an affidavit setting forth in detail the agreement that was entered into with counsel with respect to the actions to be taken and what representations counsel did or did not make to the respondent in this regard, (2) demonstrated that [REDACTED] was informed of the allegations leveled against him and was given an opportunity to respond, and (3) indicated either that a complaint has been filed against [REDACTED] or, if not, why not. The applicant has provided no such evidence nor any reason for that omission. The applicant's claim of ineffective representation will not be considered.

As to the discrepant tax returns, the applicant stated that her husband [REDACTED] is the person who has used the alias [REDACTED]. The applicant stated that [REDACTED] is the name of her husband's late brother, and that, in order to escape the consequences of a previous arrest, her husband assumed that name when he applied for a social security card.

The notice of adverse evidence informed the applicant that if she did not respond satisfactorily to the adverse evidence, not only would this office deny the instant application, but it would also enter a finding of fraud. The applicant's explanation is not responsive, as is detailed below.

This office requested that the applicant provide IRS certified tax returns to demonstrate which of the returns she previously submitted, if any, are genuine. The applicant did not.

As the notice of adverse evidence indicated, the record contains two 1998 tax returns. In one [REDACTED] ostensibly claimed the applicant as a dependent child. [REDACTED] and the applicant ostensibly filed the other return jointly as husband and wife. This office requested that the applicant explain how those two disparate 1998 tax returns came to be submitted. She did not.

As the notice of adverse evidence indicated, the record contains two 1999 returns, one which the applicant purportedly filed with her husband in which he used the name [REDACTED] and one which she purportedly filed with her husband using the name [REDACTED]. Some line items on those returns are different. Notwithstanding that [REDACTED] and [REDACTED] may, as the applicant claims, be the same person, only one of those returns, at the most, can be the applicant's genuine return that she filed with IRS. The other was apparently prepared for submission to CIS, although it is not the applicant's genuine tax return. This office asked that the applicant explain how two disparate versions of her 1999 tax return came to be submitted. She did not.

As the notice of adverse evidence indicated, the record also contains two 2000 returns, one which the applicant purportedly filed with her husband in which he used the name [REDACTED] and one which she purportedly filed with her husband using the name [REDACTED]. Some line items on those returns are also different. Again, notwithstanding that [REDACTED] and [REDACTED] may, as the applicant claims, be the same person, only one of those returns, at the most, can be the applicant's genuine return that she filed with IRS. The other was apparently prepared for submission to CIS, although it is not the applicant's genuine tax return. This office asked that the applicant explain how two disparate versions of her 1999 tax return came to be submitted. She did not.

The issue raised in the decision of denial is whether the applicant has furnished sufficient credible evidence to demonstrate continuous unlawful residence in the United States from prior to January 1, 1982 and through the requisite period. The applicant has made relevant assertions and submitted a great quantity of relevant evidence. Various assertions the applicant has made and items of evidence she has provided conflict with each other, as is detailed above. The applicant has failed to adequately address those many discrepancies.

The evidence must be evaluated not by the quantity of evidence alone but by its quality. 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. The applicant's evidence, absent reconciliation of the many discrepancies, is not credible.

The absence of sufficiently credible documentation to corroborate the applicant's claim of continuous residence for the entire requisite period detracts from the credibility of her claim. Given the paucity of credible supporting documentation she has failed to meet her burden of proof and failed to establish entry into the United States before January 1, 1982 and continuous residence in the United States thereafter through the end of the qualifying period as required by 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. The appeal will be dismissed.

As was noted above, the record suggests another issue, in addition to the applicant's ineligibility. The evidence in the file indicates that the applicant filed falsified documents in attempts to obtain immigration benefits. In the first instance, the contradictory versions of the applicant's 1998, 1999, and 2000 tax returns, described in detail above, demonstrate that at least one tax return for each of those years is not genuine.

Further, for the purpose of her February 22, 2005 Form EOIR 42B the applicant stated that she entered the United States for the first time during February of 1988. For the purpose of the instant application the applicant stated that she last entered the United States during October 20, 1981. One of those statements, each of which was submitted to obtain an immigration benefit, is false, and the applicant's date of entry was a material fact in the adjudication of both applications.

Whether the entry date on the instant application is incorrect, or whether the entry date on the Form EOIR 42B is incorrect, or whether both are incorrect, the fact remains that the date of her entry was misstated, apparently intentionally, on at least one of those forms.

As was noted above, section 212(a)(6)(C) of the Act provides:

Misrepresentation. – (i) In general. – Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act is inadmissible.

This office finds that the applicant sought to procure an immigration benefit by willfully misrepresenting material facts. The applicant is therefore inadmissible.

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