



U.S. Citizenship  
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Office: NEW YORK

Date: MAY 12 2008

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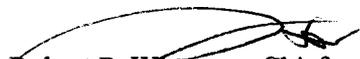
Applicant: [REDACTED]

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.

  
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 matter subsequently came before the Administrative Appeals Office (AAO) on appeal, which was dismissed with a finding of fraud. The AAO hereby reopens the matter *sua sponte* in order to consider additional evidence that was not available at the time of the prior decision. However, the AAO affirms its decision dismissing the appeal.

On January 30, 2008, the AAO issued a decision dismissing the applicant's appeal on the basis that the applicant had failed to establish 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 AAO's decision was primarily based, in part, upon deficiencies in the applicant's supporting documentation. The AAO further issued a finding of fraud based on additional adverse findings of which the applicant was notified via a letter dated December 13, 2007. The adverse findings pertained specifically to three envelopes postmarked March 14, 1981, March 26, 1982, and June 15, 1983, respectively, all of which were submitted in support of the applicant's claim. Briefly, a review of the *2008 Scott Standard Postage Stamp Catalogue Volume 2* (Scott Publishing Company 2007) revealed that all three envelopes bear stamps that were not issued until after the date of the respective postmarks, thereby establishing that the applicant utilized these documents in a fraudulent manner and made material misrepresentations in an attempt to establish her residence within the United States during the requisite period. The AAO further noted that all of the envelopes submitted to account for the applicant's residence at Intervale Avenue are missing the house or apartment number. The AAO noted that 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).

In an effort to allow the applicant the opportunity to respond to the AAO's findings, the AAO notified her of the adverse information in the December 13, 2007 letter. At the time the AAO was ready to issue its final decision, no further evidence had been received and the AAO concluded that the applicant failed to respond to the adverse information presented. However, subsequent to the issuance of the AAO's most recent decision, the applicant provided documentary evidence showing that she had provided a timely response, which the AAO will now consider. Specifically, the applicant provided a letter dated December 17, 2007 in which she provided her own undocumented explanations for the considerable discrepancies cited by the AAO. However, the AAO clearly informed the applicant that unless she was able to provide independent and objective evidence to overcome, fully and persuasively, the above findings, the appeal would be dismissed. The applicant was expressly told that her response to the adverse findings must be in the form of independent and objective evidence from credible sources addressing, explaining, and rebutting the discrepancy described above.

While the AAO acknowledges that it erroneously concluded that the applicant failed to respond, it notes that the applicant's response is not in the proper format of which the applicant was expressly informed. Rather, the applicant provided her own explanation, unsupported by any objective evidence, in an attempt to overcome the pending finding of fraud. However, going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). The applicant's submission of additional envelopes bearing post dates and envelopes similar to those previously discussed does not constitute the type of evidence needed to overcome the severely adverse findings made in the AAO's letter and subsequent decision.

Therefore, after having considered the applicant's response to the AAO's adverse findings, the AAO concludes that the applicant has not met her burden of proof.

The fact the envelopes postmarked March 14, 1981, March 26, 1982, and June 15, 1983 bear stamps that were not issued until well after the dates of these postmarks establishes that the applicant utilized documents in a fraudulent manner and made material misrepresentations in an attempt to establish residence within the United States for the requisite period.

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 engaging in such action, the applicant has negated her own credibility as well as the credibility of her claim of continuous residence in this country for the period from prior to January 1, 1982 to May 4, 1988. In addition, the applicant rendered herself inadmissible to the United States under any visa classification, immigrant or nonimmigrant pursuant to section 212(a)(6)(C) of the Act by committing acts constituting fraud and willful misrepresentation. Because the applicant in the present matter has failed to provide independent and objective evidence to overcome, fully and persuasively, our finding that she submitted falsified documents, we affirm our prior findings of fraud.

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