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U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



**U.S. Citizenship
and Immigration
Services**

E,

FILE: [REDACTED] Office: NEWARK, NJ Date: JUL 27 2010
IN RE: Applicant: [REDACTED]
APPLICATION: Application to Preserve Residence for Naturalization Purposes under Section
316(b) of the Immigration and Nationality Act, 8 U.S.C. § 1427(b)

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Form N-470, Application to Preserve Residence for Naturalization Purposes (N-470 Application) was denied by the District Director, Newark, New Jersey. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed, and the N-470 application will be denied.

The applicant seeks to preserve her residence for naturalization purposes pursuant to section 316(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1427(b). The district director determined that the applicant was not eligible for consideration under section 316(b) of the Act because she failed to demonstrate that she was physically present in the United States for a continuous period of at least one year after being lawfully admitted for permanent residence in the United States. In the present matter, the applicant was lawfully admitted for permanent residence in the United States on March 24, 2004, and subsequently filed the current petition on January 20, 2005, two months prior to the one year mark. The application was denied accordingly.

On April 21, 2005, the petitioner submitted the Form I-290B to appeal the denial of the underlying petition. The petitioner marked the box at part two of the Form I-290B to indicate that no supplemental brief and/or additional evidence will be submitted. Thus, the AAO deems the record complete as currently constituted.

An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. 8 C.F.R. § 103.3(a)(1)(v).

On the Form I-290B, the petitioner states the following:

My application to Preserve Residence for Naturalization has been denied as the application was submitted before the uninterrupted period of one year after lawful admission for permanent residence. In this respect I want to state that my intended date of departure (27th Apr. 05) as mentioned in application is about a month after one year of uninterrupted stay in USA. I applied earlier to allow time for decision. As my stay is now over a year, I humbly request to accept this appeal to Preserve Residence for Naturalization.

In regard to the director's conclusions that the applicant failed to submit sufficient evidence to show that she has been present in the United States for an uninterrupted time of one year, the applicant fails to identify any erroneous conclusion of law or statement of fact for the appeal. In fact, the applicant acknowledges that she applied prior to the end of the one year period of time in the United States. As no additional evidence is presented on appeal to overcome the decision of the director, the appeal will be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(1)(v).

The applicant requests on appeal to approve the application since by the time the appeal was filed, one year of uninterrupted time in the United States had passed. The applicant must

establish eligibility at the time of filing the application. An application may not be approved at a future date after the applicant becomes eligible under a new set of facts. *Matter of Michelin Tire Corp.*, 17 I&N Dec. 248 (Reg. Comm. 1978).

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The applicant has not sustained that burden.

ORDER: The appeal is summarily dismissed. The application is denied.