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U.S. Citizenship and Immigration Services

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SEP 0 6 2007

FILE: [redacted] Office: LOS ANGELES Date:

MSC-04-311-10429

IN RE: 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, Los Angeles, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director determined the information the applicant submitted failed to establish by a preponderance of the evidence that he is eligible for temporary resident status. As a result, the director denied the application.

On appeal, the applicant provided copies of letters he had already submitted, together with new documents in support of these letters.

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 Immigration and Nationality Act (Act), 8 U.S.C. § 1255a(a)(2).

An applicant for adjustment to temporary resident status must 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).

For purposes of establishing residence and presence in accordance with the regulation at 8 C.F.R. § 245a.2(b), "until the date of filing" shall mean until the date the applicant attempted to file a completed Form I-687 application and fee or was caused not to timely file, consistent with the class member definitions set forth in the CSS/Newman Settlement Agreements. CSS Settlement Agreement paragraph 11 at page 6; Newman Settlement Agreement paragraph 11 at page 10.

An applicant for adjustment of status has the burden of proving by a preponderance of the evidence that he or 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. The inference to be drawn from the documentation provided shall depend on the extent of the documentation and 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.* 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 (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 he resided in the United States from prior to January 1, 1982 through the date he attempted to file a Form I-687 application with the Immigration and Naturalization Service (INS) in the original legalization application period of May 5, 1987 to May 4, 1988. Here, the submitted evidence is not relevant, probative, and credible.

The record shows that the applicant submitted a Form I-687 application and a Form I-687 Supplement, CSS/Newman Class Membership Worksheet, to Citizenship and Immigration Services (CIS) on August 6, 2004. At part #30 of the Form I-687 application where applicants were asked to list all residences in the United States since first entry, the applicant listed the following Los Angeles, California addresses during the requisite period: [redacted] from August 1980 to December 1983; [redacted] from January 1984 to December 1985; and [redacted] from January 1986 to December 1990.

The applicant provided multiple letters in support of his application. [redacted] confirmed that the applicant had been working with him on construction projects since 1981. This letter did not specifically confirm the applicant's residence in the United States for any portion of the requisite period. [redacted] Nadel confirmed that she has known the applicant since the 1980s and has been invited by him on several occasions over the years to join in the applicant's family celebrations. Again, this letter did not confirm that the applicant resided in the United States for any portion of the requisite period. In his first letter, [redacted] stated that his relationship with the applicant started in 1980 when the applicant began working on a remodeling project at [redacted] house in California. [redacted] explained that he would be counting on the applicant for all his future remodeling projects. This letter did not confirm the applicant resided in the United States for any specific portion of the requisite period. The second letter from [redacted] confirmed that he met the applicant in 1980 in California. Again, this letter fails to confirm the applicant resided in the United States for any specific portion of the requisite period. Lastly, the applicant provided a letter from [redacted] signed by [redacted] Associate Pastor, Treasurer; [redacted] (Witness), Administrative Assistant; and [redacted] Women's Ministry. This letter confirms that the applicant "has been a friend of our

family since 1981 . . . ." and that he is an asset to the community. Again, this letter fails to confirm the applicant resided in the United States for any specific portion of the requisite period. This letter also fails to conform to the requirements of attestations by churches, unions, or other organizations to the applicant's residence. Specifically, the letter does not show the inclusive dates of the applicant's membership in the church, state the address where the applicant resided during membership, establish how the authors knew the applicant, or establish the origin of the information being attested to. 8 C.F.R. § 245a.2(d)(3)(v). It is noted that none of the letters provided by the applicant were in affidavit form or signed by a notary public.

In his interview with an immigration officer on July 25, 2005, the applicant stated that he first came to the United States in August 1980. The applicant was given a Form I-72 and asked to submit additional documentation.

In response to the Form I-72 request, the applicant provided a copy of a California identification card issued on July 14, 1983 and confirming he resided at [redacted] California at that time. The applicant also provided a letter from [redacted] together with a copy of her California driver's license. [redacted] confirmed that she has known the applicant "since the 80s." She met him at her previous residence at [redacted] California. Ms. [redacted] explained that she moved "a few years later" to [redacted] and kept in touch with the applicant. "[A] couple of years later" she moved again to [redacted], and she and the applicant became neighbors again. This letter is inconsistent with the information provided on the Form I-687. Specifically, the applicant indicated he had lived at [redacted] the same address as Ms. [redacted] while [redacted] indicated she merely "kept in touch" with the applicant while she was at this address. A further apparent inconsistency has been identified by consulting internet mapping websites, including http://maps.google.com/maps?tab=wl. Upon consulting a map, the address [redacted] does not appear to be geographically closer to any of the applicant's addresses in particular. [redacted] are all extremely geographically close. Therefore, it appears inconsistent for [redacted] to state that she and the applicant "became neighbors again" when she moved to [redacted], her address that was furthest from any of the applicant's addresses, after leaving an address that she had at some time shared with the applicant. This inconsistency calls into question whether [redacted] can actually confirm the applicant's residence in the United States during the requisite period. Lastly, [redacted] did not confirm the applicant's residence in the United States for any specific portion of the requisite period.

In his letter, [redacted] confirmed that he has known the applicant since 1980 when he was introduced to the applicant by the applicant's brother. [redacted] provided a list of his own prior addresses, but he did not confirm the applicant resided in the United States at any time. The applicant also provided a letter from [redacted] In this letter, [redacted] confirmed she has known the applicant "prior to 1980." She met the applicant at her previous residence at [redacted] Los Angeles where the applicant was her neighbor. [redacted] did not confirm the applicant resided in the United States for any portion of the requisite period. In addition, her statements are found to be inconsistent with the applicant's statements on Form I-687 and in the interview with an immigration officer. Specifically, [redacted] indicated that she met the applicant in Los Angeles prior to 1980, while the applicant

indicated he did not enter the United States until August 1980. This inconsistency calls into question whether [redacted] actually can confirm the applicant's residence during the requisite period.

In denying the application, the director noted the inconsistency between the applicant's statements and [redacted] statements. The director also noted that the applicant failed to provide evidence that his affiants were present in the United States prior to 1982, despite the fact that this evidence was requested on Form I-72. The director determined the information the applicant submitted failed to establish by a preponderance of the evidence that he is eligible for temporary resident status. As a result, the director denied the application.

On appeal, the applicant resubmitted the letters from [redacted]. In addition, the applicant provided documentation that [redacted] and [redacted] were in the United States prior to 1982. The applicant also reiterated that he came to the United States in 1980 and has resided in this country continuously since that time.

In summary, the applicant has provided contemporaneous evidence related to only one year of residence in the United States during the requisite period, and has submitted letters that are not in affidavit format and fail to confirm the applicant resided in the United States for any portion of the requisite period, fail to conform to regulatory requirements, or are inconsistent with the applicant's written and oral statements. Specifically, the letters from [redacted] and [redacted] did not confirm the applicant's residence in the United States for any portion of the requisite period. In addition, the letter from [redacted] fails to conform to the requirements for attestations by churches. Lastly, [redacted] and [redacted] statements appeared to be inconsistent with the applicant's statements.

The absence of sufficiently detailed and consistent supporting documentation to corroborate the applicant's claim of continuous residence for the entire requisite period seriously detracts from the credibility of this claim. 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 contradictory statements contained in the applicant's I-687 application and supporting letters, and 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 from prior to January 1, 1982 through the date he attempted to file a Form I-687 application as required under both 8 C.F.R. § 245a.2(d)(5) and *Matter of E- M--, supra.* 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.