

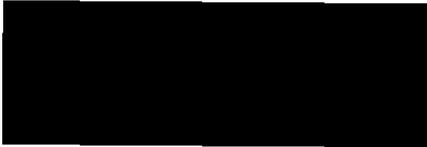
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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



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



E2

Date: **JUL 13 2012**

Office: HIALEAH, FL

FILE: 

IN RE: Applicant: 

APPLICATION: Application to Preserve Residence for Naturalization Purposes under Section 317 of the Immigration and Nationality Act, 8 U.S.C. § 1428.

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

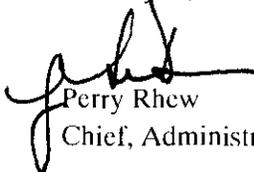
INSTRUCTIONS:

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 AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630, or a request for a fee waiver. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5.

**Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to 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 Application to Preserve Residence for Naturalization Purposes (Form N-470) was denied by the Field Office Director, Hialeah, Florida (the director). The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed, and the N-470 application will remain denied.

The applicant seeks to preserve her residence for naturalization purposes pursuant to section 317 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1428, as a lawful permanent resident who is authorized to perform ministerial functions of a religious denomination having a bona fide organization within the United States.

The field office director determined that the applicant failed to establish that she meets the definition of a missionary under section 317 of the Act or that she was physically present and residing in the United States for an uninterrupted period of at least one year since becoming a lawful permanent resident. The application was denied accordingly.

On appeal, the applicant maintains that she has been a full time minister since November 2004 and that her absences from the United States were all related to her work as a minister for the [REDACTED] under the order of the Jehovah's Witnesses. See Statement Accompanying Form I-290B, Notice of Appeal to the AAO.

Section 316(a)(1) of the Act, 8 U.S.C. § 1427(a)(1), provides in pertinent part that:

No person . . . shall be naturalized, unless such applicant, (1) immediately preceding the date of filing his application for naturalization has resided continuously, after being lawfully admitted for permanent residence, within the United States for at least five years and during the five years immediately preceding the date of filing his application has been physically present therein for periods totaling at least half of that time[.]

Section 317 of the Act, 8 U.S.C. § 1428, provides an exception to the continuous residence and physical presence requirements set forth in section 316 of the Act, and states that:

Any person who is authorized to perform the ministerial or priestly functions of a religious denomination having a bona fide organization within the United States, or any person who is engaged solely by a religious denomination or by an interdenominational mission organization having a bona fide organization within the United States as a missionary, brother, nun, or sister, who

(1) has been lawfully admitted to the United States for permanent residence,

(2) has at any time thereafter and before filing an application for naturalization been physically present and residing within the United States for an uninterrupted period of at least one year, and

(3) has heretofore been or may hereafter be absent temporarily from the United States in connection with or for the purpose of performing the ministerial or priestly functions of such religious denomination, or serving as a missionary, brother, nun, or sister, shall be considered as being physically present and residing in the United States for the purpose of naturalization within the meaning of section 316(a), notwithstanding any such absence from the United States, if he shall in all other respects comply with the requirements of the naturalization law. Such person shall prove to the satisfaction of the Attorney General that his absence from the United States has been solely for the purpose of performing the ministerial or priestly functions of such religious denomination, or of serving as a missionary, brother, nun, or sister.

In the present matter, the applicant was admitted as a lawful permanent resident on July 7, 2004. The record indicates that she was absent from the United States from December 2004 to the present. A letter from the [REDACTED] states that she has been serving as a full time minister on their behalf, in Ecuador, since October 2005.

Section 317 of the Act only allows for an exception from the continuous residence and physical presence requirements for naturalization where the applicant can establish that her absence from the United States is because she is *solely* engaged in missionary work for the religious denomination. The record demonstrates that the applicant has been absent from the United States since December 2004, and that since October 2005 has been serving as a minister in Ecuador on behalf of a religious denomination having a bona fide organization within the United States.

Section 317-(2) of the Act further requires, however, that the applicant establish that she has been physically present in the United States for an uninterrupted period of at least one year after her admission as a lawful permanent resident. The applicant claims that she was present in the United States from July 2004 to July 2005, but the record does not support her claim. The applicant therefore cannot establish that she has been present in the United States for an uninterrupted period of one year and her application may not be approved for that reason.

The burden of proof is on the applicant to establish eligibility for the benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. The applicant has failed to meet her burden of proof in the present matter. Her appeal will therefore be dismissed and her application will remain denied.

**ORDER:** The appeal is dismissed. The application remains denied