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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

Ez



Date: JUN 19 2012

Office: [Redacted]

FILE: [Redacted]

IN RE: Applicant: [Redacted]

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 with the field office or service center that originally decided your case by filing a 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, Lawrence, Massachusetts (“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 his 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: he was physically present and residing in the United States for an uninterrupted period of at least one year since becoming a lawful permanent resident; he is or was authorized to perform ministerial or priestly functions of a religious denomination having a religious organization within the United States; or that his absences from the United States were in connection with, or for the purpose of performing, the ministerial or priestly functions of such religious denomination or missionary work. The application was denied accordingly.

On appeal, the applicant maintains that his religious denomination has a bona fide religious organization within the United States and that his absences, in the future, will be related to the performance of ministerial functions for his religious denomination. *See* Statement of the Applicant on 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 February 12, 2007. The evidence in the record indicates that the applicant was absent from the United States from 2007 to 2009, in 2010 and from June 2011 to the present. The applicant does not claim eligibility for the exception to the continuous residence and physical presence requirements based on his previous absences from the United States. See Statement of the Applicant on Form I-290B, Notice of Appeal to the AAO. Rather, the applicant states that his absences, starting in July 2011, have been for the purpose of performing ministerial work on behalf of his religious denomination, the

The record now contains an affidavit executed by the applicant stating that he is a duly authorized representative of the [REDACTED] who has been providing medical care to members of this religious organization in [REDACTED]. The record also contains a print-out from the "ISHCC" website directory stating that the [REDACTED] is a nonprofit corporation; a press release stating that the [REDACTED] ordained the [REDACTED] [REDACTED] an information sheet from the [REDACTED] the applicant's proposed duties as a medical missionary; and a Letter of Appointment dated July 2011 and signed by [REDACTED] of the [REDACTED]

The record indicates that the applicant is not a person authorized to perform ministerial or priestly function of a religious denomination, and does not contain sufficient evidence to establish that the medical missionary work the applicant is performing is for a religious denomination or interdenominational mission organization having a bona fide religious organization within the United States. The applicant has provided evidence of the [REDACTED] nonprofit status and of [REDACTED] ordination, but not of the connection between his employment abroad and the [REDACTED] or of the medical clinic where his missionary work is performed and the religious denomination. The record is also unclear as to whether the applicant's

purported missionary work is solely comprised of providing medical care or whether it includes a missionary or advocacy component. The statute only allows for an exception from the continuous residence and physical presence requirement where the applicant can establish that his absence from the United States is because he is *solely* engaged in missionary work for the religious denomination. See Section 317 of the Act. The AAO therefore cannot find that the applicant has established eligibility to preserve residence and physical presence pursuant to section 317 of the Act.

The AAO further notes that the applicant has not established that he has been physically present in the United States for an uninterrupted period of at least one year after his admission as a lawful permanent resident as required by section 317(2) of the Act, and the application may also 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 his burden of proof in the present matter. His appeal will therefore be dismissed and his application will remain denied.

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