



U.S. Citizenship  
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FILE: [REDACTED]  
MSC 05 067 10082

Office: Los Angeles

Date: AUG 21 2007

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

6

**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, California, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The district director determined the applicant had not demonstrated that she had continuously resided in the United States in an unlawful status since before January 1, 1982 through the date that she attempted to file a Form I-687, Application for Status as a Temporary Resident, with the Immigration and Naturalization Service or the Service (now Citizenship and Immigration Services or CIS) in the original legalization application period of May 5, 1987 to May 4, 1988. Therefore, the district director determined that the applicant was not eligible to adjust to temporary resident status pursuant to the terms of the CSS/Newman Settlement Agreements and denied the application.

On appeal, the applicant states that any inconsistencies in information provided on a prior Form I-485, Application to Register Permanent Resident or Adjust Status, and a Form G-325A, Biographic Information, were the result of clerical error and should not bar her from temporary resident status.

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 applying 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 alien 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 alien applying 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, its credibility and amenability to verification. See 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 she resided in the United States from prior to January 1, 1982 through the date she attempted to file a Form I-687 application with the Service 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 CIS on December 6, 2004. At part #30 of the Form I-687 application where applicants are instructed to list all residences in the United States since first entry, the applicant indicated that she resided at [REDACTED] [REDACTED] from February 1981 to November 1989. At part #33, where applicants are instructed to list all employment in the United States since initial entry, the applicant indicated that she worked for United Presort Service located at “ [REDACTED] California” from June 1985 to September 1985; for Wells Fargo located at [REDACTED] Commonwealth, Fullerton, California” from February 1986 to July 1987; and at [REDACTED] Los Angeles, California” from March 1988 to July 1988. At part #4 of the application, where applicants are instructed to list other names used or known by, the applicant indicated that she was also known as [REDACTED] and [REDACTED]

In an attempt to establish continuous unlawful residence in this country since prior to January 1, 1982, the applicant submitted an affidavit dated June 27, 2005, from her sister, [REDACTED] naturalized United States citizen. [REDACTED] stated the applicant first entered the United States on February 10, 1981 and lived at [REDACTED] California” from that date to November 1989.

The applicant submitted the following documents in the name of “Vilma Perdomo”:

1. photocopies of a Form 1040 income tax return and Form W-2, Wage and Tax Statement, from [REDACTED] Manufacturing Company, Inc.;
2. a photocopy of a Wells Fargo letter dated January 22, 1987 addressed to [REDACTED]
3. a photocopy of a letter dated February 23, 1983, from [REDACTED] Minister [REDACTED] and,
4. a letter from [REDACTED] of McDonald’s Restaurants in Northridge, California, addressed to [REDACTED]

The regulation at 8 C.F.R. § 245a.2(d)(2) provides, in pertinent part:

In cases where an applicant claims to have met any of the eligibility criteria under an assumed name, the applicant has the burden of proving that the applicant was in fact the person who used that name. . . . The assumed name must appear in the documentation provided by the applicant to establish eligibility. To meet the requirements of this paragraph documentation must be submitted to prove the common identity, i.e., that the assumed name was in fact used by the applicant. . . . The most persuasive evidence is a document issued in the assumed name which identifies the applicant by photograph, fingerprint or other detailed physical description. Other evidence which will be considered are affidavit(s) by a person or persons other than the applicant, made under oath, which identify the affiant by name and address, state the affiant’s relationship to the applicant and the basis of the affiant’s knowledge of the applicant’s use of the assumed name. Affidavits accompanied by a photograph which has been identified by the affiant as the individual known to the affiant under the assumed name in question will carry greater weight.

The applicant has not provided sufficient evidence to establish that she used the assumed name [REDACTED] during the requisite period. The applicant has not provided a photo identification document identifying her as [REDACTED] nor has she provided an affidavit from another individual with attached photo of her attesting to the fact that the applicant and [REDACTED] are in fact one and the same person.

Additionally, [REDACTED] stated in his letter dated February 23, 1983:

Sunday when you participated in our church chorus, you had demonstrated great potential in singing, I congratulate you for that was great!.

What is important for us is your desire to be part of our "church Body of Christ," your presence is a blessing and gift for us, I [give] thanks to our Lord Jesus, for providing us, such us talented person, we look forward to see you again."

First of all, this church is not located in California, where the applicant claims she resided during the requisite period, but rather in California, Missouri. The area code of the church's telephone number as shown under the church's address on the letter, 314, is the area code for St. Louis, Missouri. The applicant has not explained why she would have expressed a desire to join a Baptist church in St. Louis, Missouri, or why she would even have visited a church in St. Louis, Missouri, when she claims to have lived in California during the requisite period.

Furthermore, the applicant submitted a certificate from St. Jerome Church, location unknown, indicating that the applicant received the sacrament of confirmation in the Roman Catholic Church on April 28, 1983. The applicant has not explained why she would visit a Baptist Church in St. Louis, Missouri, in February 1983 and then be confirmed as a Roman Catholic in April 1983, only two months later. In view of the foregoing, the evidence submitted under the name "Vilma Perdomo" will be given no evidentiary weight.

We note that some of the photocopied documents submitted by the applicant to corroborate her claim of continuous residence in the United States during the requisite period appear to have been altered. A photocopy of an account statement from Central Electric in Los Angeles, California, and a pay stub from [REDACTED] located at [REDACTED] California" appear to have been typed by the same typewriter. The lowercase letter "o" in [REDACTED]" is shaded in and appears to be a solid circle instead of a normal letter "o" with no shading in the center. It is noted that the applicant did not list any employment for [REDACTED] on the Form I-687.

Additionally, the applicant's name and address, [REDACTED] on the following documents appear to have been typed by the same typewriter in all capital letters after the original name and address were eradicated: a mailing envelope postmarked on June 21, 1982 and a monthly checking account statement from First Interstate Bank, Los Angeles, California, dated October 6, 1987.

It is noted that the mailing envelope postmarked June 21, 1982, is addressed to the applicant in her married name, "[REDACTED]" As of June 21, 1982, the applicant was a 14-year-old minor child supposedly living with her father in Los Angeles, California. Furthermore, the applicant stated on a Form G-325A, Biographic Information, dated October 28, 2001, that she was married to [REDACTED] a citizen of Mexico, in California on February 7, 1994. The applicant has not explained why she would receive a letter addressed to her in her married name in 1982, when she

was only 14 years old, or why she would receive a letter addressed to her using her married name in 1982 when she was not married to [REDACTED] until 1994.

The applicant also submitted a photocopy of a billing statement dated November 13, 1984, from Dr. [REDACTED] of Los Angeles, California. The applicant's name and address are typed in a font that does not appear to match the font in the rest of the document and may have been added to the document after the fact.

The applicant also submitted a photocopy of a certificate of excellence in the Spanish language from an unidentified school indicating that [REDACTED] - 8<sup>th</sup> grade - had demonstrated outstanding behavior and work in social studies. The certificate is signed by "[REDACTED]" and is dated "May 19, 1981." The original issuance date of the certificate appears to have been eradicated and the date "May 19, 1981" substituted.

Additionally, as stated by the district director, the applicant previously stated on a Form I-130, Petition for Alien Relative, filed on the applicant's behalf by her sister, [REDACTED], a naturalized United States citizen, that she last arrived in the United States on December 28, 1990. She further stated on a Form G-325A Biographic Information, that she resided in Guatemala from September 1967 to December 1990. This statement contradicts her current claim that she has resided continuously in the United States since February 1981.

On appeal the applicant claims that this discrepancy is simply a clerical error and should not prejudice her claim of eligibility for temporary resident status. However, the record reveals that the applicant's sister filed a separate Form I-130 on her behalf under receipt number WAC 01 121 53415. The applicant also stated on this Form I-130 that she first entered the United States on December 28, 1990. It might be possible to accept clerical error as an explanation for this discrepancy in the applicant's claimed date of initial entry into the United States if it had only happened once, but the applicant has claimed on two separate immigrant visa petitions that she first entered the United States on December 28, 1990. Therefore, the applicant's explanation for this discrepancy is not persuasive.

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 application. Further, it is incumbent on 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 lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582. (Comm. 1988). The fact that the applicant has submitted what appear to be questionable or altered documents in an attempt to corroborate her claim of continuous residence in the United States during the requisite period raises questions of credibility with regard to her claim.

In summary, the applicant has submitted various documents that are questionable because they appear to have been altered. She has also made contradicting claims regarding her date of initial entry into the United States. Given the applicant's contradictory statements on her applications and her reliance upon questionable and apparently altered documents, it is concluded that she has failed

to establish continuous residence in an unlawful status in the United States from prior to January 1, 1982 through the date she 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.