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U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE: MSC 05 153 12365

Office: LOS ANGELES

Date: SEP 19 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

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 submits additional evidence to corroborate her claim of continuous residence in the United States during the requisite period.

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 March 2, 2005. 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 a ranch located in Cantu Creek, California, from 1980 to 1984. She further indicated that she resided in Green Field, California, from 1984 to 1985, in Orland, California, from 1985 to 1988, and at [REDACTED] Compton, California" from 1988 to the filing date of the application. She did not list street addresses for her periods of residence in Green Field and Orland, California. Rather, she listed a post office box number for those periods.

In an attempt to establish continuous residence in the United States during the requisite period, the applicant submitted a letter dated February 16, 2005, from [REDACTED] ST, Associate [REDACTED] located at [REDACTED] Compton, California." [REDACTED] stated that the applicant had been a parishioner at his church since 1985, but current church records could not confirm her official registration as a member of his parish until 2000. [REDACTED] further stated that the applicant's son [REDACTED] was

baptized at his church in December of 1989 and her son [REDACTED] was baptized in his parish in May of 2000.

Pursuant to 8 C.F.R. § 245a.2(d)(3)(v), attestations by churches, unions, or other organizations to an alien's residence in the United States during the period in question must: (A) identify the applicant by name; (B) be signed by an official (whose title is shown); (C) show inclusive date of membership; (D) state the address where the applicant resided during the membership period; (E) include the seal of the organization impressed on the letter or the letterhead of the organization, if the organization has letterhead stationery; (F) establish how the author knows the applicant; and, (G) establish the origin of the information being attested to. The letter from [REDACTED] does not conform to this standard. [REDACTED] did not provide the applicant's addresses during the membership period. Furthermore, [REDACTED] did not provide any information as to the basis of his knowledge that the applicant had been a parishioner of his parish since 1985, in view of the fact that he specified that the church's existing records could only confirm her registration as a member of his parish since the year 2000. Therefore, this letter will be accorded little evidentiary weight.

The applicant also submitted a declaration from [REDACTED] [REDACTED] who identified himself as the applicant's friend, stated that he knew the applicant "has been living here in the United States since prior 1987." [REDACTED] explained that he met the applicant "days after she had left to Mexico to marry her fiancée." [REDACTED] further states that after the applicant returned to the United States in May 1987 after her marriage in Mexico, he saw her constantly because they lived near each other. However, [REDACTED] did not provide any specific, detailed, and verifiable testimony, such as the applicant's address(es) of residence in this country, to corroborate the applicant's claim.

The applicant included a declaration from [REDACTED]. [REDACTED] stated that she had known of the applicant's residence in the United States since 1983. She explained that she was a neighbor of the ranch where the applicant's father lived. [REDACTED] further stated that the applicant used to baby-sit her daughter, [REDACTED] however, [REDACTED] did not provide any specific, detailed, and verifiable testimony, such as the applicant's address(es) of residence in this country, to corroborate the applicant's claim.

The applicant provided a declaration from [REDACTED]. [REDACTED] stated that he had personal knowledge that the applicant had resided in the United States "since prior 1980." [REDACTED] explained that he is good friends with the applicant's father, who told him "one of his little daughters had come from Mexico to live with him." However, Mr. [REDACTED] did not provide any specific, detailed, and verifiable testimony, such as the applicant's address(es) of residence in this country, to corroborate the applicant's claim.

The applicant submitted a declaration from [REDACTED]. She stated that she had personal knowledge that the applicant had been living in this country "since prior 1980." [REDACTED] explained that her husband [REDACTED] was good friends with the applicant's father and she "saw [REDACTED] many times since she was a child." However,

█ did not provide any specific, detailed, and verifiable testimony, such as the applicant's address(es) of residence in this country, to corroborate the applicant's claim.

The applicant included a declaration from █, who stated that she and the applicant are friends. █ stated that she had personal knowledge that the applicant had lived in the United States "since prior 1985." █ explained that her father used to work with the applicant's father in the same fields and she and the applicant were neighbors. However, █ did not provide any specific, detailed, and verifiable testimony, such as the applicant's address(es) of residence in this country, to corroborate the applicant's claim.

The applicant also submitted a declaration from █ who stated that he is the applicant's father. He further stated, "I have personal knowledge of the fact that █ my Daughter has been living here in the United States since prior 1985." █ explained that he lived in Cantu Creek, California, at that time and "I got news that my daughter came to the U.S. in 1985 Without Inspection."

Finally, the applicant submitted a personal declaration in which she claimed that she first entered the United States without inspection in 1980. She explained that she lived with her father in Cantu Creek California, when she first arrived in this country and helped him in the fields cutting and washing fruit. This statement contradicts the statement by her father, █ that she first entered the United States without inspection in 1985.

The district director denied the application on April 3, 2006, because the applicant failed to establish continuous residence in the United States during the requisite period. The district director specifically noted in the denial decision the discrepancy between the statement by the applicant's father that she first entered the United States in 1985 and her statement in her personal declaration that she first entered the United States in 1980.

On appeal the applicant reiterates her claim of continuous residence in the United States in an unlawful status since 1980. She explains that she has no record of taxes during the requisite period because she paid all her bills in cash.

She submits an affidavit dated April 20, 2006, from █ her father, in which he states that he has personal knowledge that the applicant has lived in the United States "since prior 1980." However, █ did not provide any explanation as to why he has changed his testimony regarding the applicant's residence in the United States during the requisite period. █ stated in his previous declaration that the applicant has lived in the United States since 1985. This contradiction raises questions of credibility regarding Mr. █ testimony.

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 applicant also submitted an affidavit dated April 20, 2006, from [REDACTED] [REDACTED] repeats her statement that she has knowledge that the applicant has lived in the United States "since prior 1980." However, she has once again failed to provide any specific, detailed, and verifiable testimony, such as the applicant's address(es) of residence in this country, to corroborate the applicant's claim.

The applicant included an affidavit dated April 20, 2006, from [REDACTED] in which he repeats his statement from his declaration that the applicant has lived in the United States "since prior 1980." However, [REDACTED] once again failed to provide any specific, detailed, and verifiable testimony, such as the applicant's address(es) of residence in this country, to corroborate the applicant's claim.

The applicant provided an affidavit dated April 17, 2006, from [REDACTED] Ms. [REDACTED] repeats her statement from her previous declaration that the applicant has lived in this country "since prior 1985." However, [REDACTED] once again failed to provide any specific, detailed, and verifiable testimony, such as the applicant's address(es) of residence in this country, to corroborate the applicant's claim.

The applicant also provided an affidavit dated April 20, 2006, from [REDACTED] Ms. [REDACTED] repeats her statement from her previous declaration that the applicant has lived in the United States "since prior 1983." However, [REDACTED] once again failed to provide any specific, detailed, and verifiable testimony, such as the applicant's address(es) of residence in this country, to corroborate the applicant's claim.

The applicant included an affidavit dated April 20, 2006, from [REDACTED] states that she has known the applicant since 1985. [REDACTED] explains that the applicant is the wife of her brother-in-law and used to come to visit her with her aunt. However, [REDACTED] failed to provide any specific, detailed, and verifiable testimony, such as the applicant's address(es) of residence in this country, to corroborate the applicant's claim.

Finally, the applicant submitted an affidavit dated April 20, 2006, from [REDACTED] [REDACTED] states that he has known the applicant since 1986. He explains that when he met the applicant, she was his best friend's girlfriend, and she subsequently married his best friend. It is noted that [REDACTED] did not provide the name of the applicant's husband, who is also his best friend. Nor did [REDACTED] provide any specific, detailed, and verifiable testimony, such as the applicant's address(es) of residence in this country, to corroborate the applicant's claim.

In summary, the applicant has not provided any contemporaneous evidence of residence in the United States relating to the 1981-88 period, and has submitted declarations and attestations from various individuals that lack sufficient verifiable information to corroborate the applicant's claim of continuous residence in the United States during the requisite period.

The absence of sufficiently detailed 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 applicant's contradictory statements by the applicant's father regarding her date of initial entry into the United States and her reliance upon documents with minimal probative value, 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.