

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**

[REDACTED]

L1

FILE:

MSC-05-136-10012

Office: NEW YORK

Date:

APR 23 2008

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:

[REDACTED]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits Center. 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. If your appeal was sustained or remanded for further action, you will be contacted.

A handwritten signature in black ink, appearing to read "R. Wiemann".

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, New York. The decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant submitted a Form I-687, Application for Status as a Temporary Resident under Section 245A of the Immigration and Nationality Act (Act), and a Form I-687 Supplement, CSS/Newman Class Membership Worksheet. The director determined that the applicant had not established by a preponderance of the evidence that he had continuously resided in the United States in an unlawful status for the duration of the requisite period. Specifically, the director stated that the evidence the applicant submitted in support of his application was not found to be credible. Because the applicant failed to provide credible evidence that was sufficient to prove that the applicant resided continuously in the United States for the duration of the requisite period, the director denied the application, finding that the applicant had not met his burden of proof and was, therefore, not eligible to adjust to Temporary Resident Status pursuant to the terms of the CSS/Newman Settlement Agreements.

On appeal, the applicant submits a brief in support of his application. In his appeal he states that discrepancies regarding his address of residence noted by the director were caused by a typographical error. He goes on to say that as he was an undocumented immigrant he did not keep records during the requisite period. He asserts that previously submitted affidavits were submitted with identity documents. He states that they are amenable to verification and are of probative value. He asserts that the Service has requested supporting documentations that is beyond what is legally required of him.

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 Act, 8 U.S.C. § 1255a(a)(2). The applicant must also 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). The regulations clarify that the applicant must have been physically present in the United States from November 6, 1986 until the date of filing the application. 8 C.F.R. § 245a.2(b)(1).

For purposes of establishing residence and physical presence under the CSS/Newman Settlement Agreements, the term "until the date of filing" in 8 C.F.R. § 245a.2(b) means until the date the applicant attempted to file a completed Form I-687 application and fee or was caused not to timely file during the original legalization application period of May 5, 1987 to May 4, 1988. CSS Settlement Agreement paragraph 11 at page 6; Newman Settlement Agreement paragraph 11 at page 10.

The applicant has the burden of proving by a preponderance of the evidence that he or she has resided in the United States for the requisite period, 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. 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.* at 80. 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, 431 (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.

At issue in this proceeding is whether the applicant has submitted sufficient credible evidence to meet his or her burden of establishing continuous unlawful residence in the United States during the requisite period. Here, the applicant has failed to meet this burden.

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 February 13, 2005. 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 showed his addresses in the United States during the requisite period to be: [REDACTED] in Ozone Park, New York where he lived from November 1981 until June 1985; [REDACTED] in Reno, Nevada where he lived from August 1985 until May 1986; and then at [REDACTED] in Brooklyn, New York where he lived from June 1986 until June 1999. At part #32 where the applicant was asked to list all of his absences from the United States, he indicated that he had one absence during the requisite period, from June 28, 1985 until August 5, 1985 when he went to Bangladesh to visit his parents.

It is noted that this constitutes an absence of thirty-eight (38) days. At part #33, where the applicant was asked to list all of his employment in the United States since he first entered, he showed that he was employed by the following companies during the requisite period: S & S Enterprises, owned by [REDACTED] and located at [REDACTED] in Ozone Park, New York where he was a construction worker from September 1981 until June 1985. Here it is noted that the applicant's address of residence and workplace location were one and the same; Various Imperial located at [REDACTED] in El Centro, California doing farm work from September 1985 until May 1986. The applicant indicated that he was unemployed from June to July of 1986 and that he then worked for Four Star Construction for [REDACTED] in Brooklyn, New York from July 1986 until December 1997. Here it is noted that the applicant indicated he lived in Reno, Nevada when he was working in El Centro from September 1985 until May 1986. The distance between the applicant's home address in Reno, Nevada and work address in El Centro, California is just over six-hundred ten (610) miles and it would take approximately ten and a half (10.5) hours to travel between these locations each way, making the daily commute approximately twenty-one (21) hours. The AAO finds it is implausible that an individual would work six-hundred ten (610) miles from their place of work.

The record contains a photocopy of a second Form I-687 that shows it was signed in November 1992. Here, the applicant listed his addresses of residence consistently with what he showed on his subsequently filed Form I-687. However, he states that he worked for [REDACTED] rather than Various Imperial from September 1985 until May 1986. He did not show an address associated with this employment.

Also in the record is a statement from the applicant that was signed and notarized on February 8, 2005. In this statement the applicant asserts that he originally entered the United States in September 1981 and resided continuously in the United States for the duration of the requisite period. He states he attempted to apply for legalization during the original filing period. Here, he does not provide a date associated with this attempt, but he does state that he did so at the New York Legalization office. He states that he was absent for a period of less than forty-five (45) days in 1985 and that this is why he was turned away by the Service.

The applicant has the burden of proving by a preponderance of the evidence that he has resided in the United States for the requisite period. 8 C.F.R. § 245a.2(d)(5). To meet his burden of proof, an applicant must provide evidence of eligibility apart from his own testimony. 8 C.F.R. § 245a.2(d)(6). The regulation at 8 C.F.R. § 245a.2(d)(3) provides an illustrative list of documentation that an applicant may submit to establish proof of continuous residence in the United States during the requisite period. This list includes: past employment records; utility bills; school records; hospital or medical records; attestations by churches, unions or other organizations; money order receipts; passport entries; birth certificates of children; bank books; letters or correspondence involving the applicant; social security card; selective service card; automobile receipts and registration; deeds, mortgages or contracts; tax receipts; and insurance policies, receipts or letters. An applicant may also submit any other relevant document pursuant to 8 C.F.R. § 245a.2(d)(3)(vi)(L).

The regulation at 8 C.F.R. § 245a.2(d)(3)(i) states, in pertinent part: that letters from employers should be on the employer letterhead stationary, if the employer has such stationary and must include the following: an applicant's address at the time of employment; the exact period of employment; periods of layoff; duties with the company; whether or not the information was taken from the official company records; and where records are located and whether the Service may have access to the records. The regulation further provides that if such records are unavailable, an affidavit form-letter stating that the alien's employment records are unavailable and noting why such records are unavailable may be accepted in lieu of statements regarding whether the information was taken from the official company records and an explanation of where the records are located and whether USCIS may have access to those records. This affidavit form-letter shall be signed, attested to by the employer under penalty of perjury, and shall state the employer's willingness to come forward and give testimony if requested.

The regulation at 8 C.F.R. § 245a.2(d)(3)(v) states in pertinent part that attestations by churches, unions or other organizations can be considered credible proof of residence if such documents: identify the applicant by name; are signed by an official whose title is shown; show inclusive dates of membership; state the address where the applicant resided during his or her membership period; include the seal of the organization impressed on the letter or the letterhead of the organization, if the organization has letterhead stationary; establish how the author knows the applicant; and establish the origin of the information being attested to.

Here, the applicant submitted the following documents that are relevant to the requisite period in support of his application:

The following affidavits from [REDACTED]

- A notarized affidavit that is dated January 27, 2005 in which [REDACTED] states that he was present with the applicant when he attempted to file for legalization in March 1988 during the original filing period. He states that the applicant was turned away by a Service officer because of a brief absence from the United States in 1985. He goes on to say that the applicant arrived in the United States in September 1981 and from that date until June 1985 the applicant lived with [REDACTED] in his apartment until June 1985 when he moved to the affiant's friend's building. It is noted here that the applicant's Form I-687 shows that the applicant traveled to Bangladesh from June to August of 1985 and then he moved to Reno Nevada. Here, though the affiant states that the applicant resided with him from September 1981 until June 1985 he does not indicate an address associated with this residence nor does he offer proof that he himself resided in the United States at that time. He does not state whether there were periods of time during the requisite period when he did not see the applicant. He fails to indicate how he met the applicant or to indicate whether it was in the United States. He states that he resided with the applicant until June 1985 and then the applicant moved to his friend's building. However, he does not state where this friend's building was or when the applicant moved into that building. Though the affiant indicates that the Service can write a letter to him to verify information in his affidavit, he does not provide an address at which the Service can do so. Further, he fails to provide a telephone

number at which the Service can contact him to verify information in his affidavit. Therefore, this affidavit is not amenable to verification. Because it is significantly lacking in detail and because it is not amenable to verification, this affidavit carries only minimal weight in establishing that the applicant resided in the United States from a date before 1981 until June 1985. This letter carries no weight in establishing that the applicant resided in the United States for the duration of the requisite period.

- A notarized letter from [REDACTED] that is dated January 25, 2005 that is on S & S Construction letterhead. Here, the declarant states that the applicant worked for him from October 1981 until June 1985. He states that the applicant was given the job to pay for room and board at his place of business for humanitarian reasons.
- A notarized letter from [REDACTED] that is dated November 8, 2004. In this affidavit, the affiant states that he has resided in the United States since 1974. He goes on to say that he personally knows that the applicant entered the United States in September 1981. He states that he first met the applicant in the United States in September 1981. He further states that the applicant traveled to visit his family in June 1985 and reentered the United States by entering through California at the border.
- A declaration from S [REDACTED] that was submitted with proof of the declarant's identity. This declaration is not dated or notarized. Here, the declarant states that he first entered the United States in 1975. It is noted that this is not consistent with what he showed on his November 8, 2004 affidavit. He also states that the applicant was his tenant and employee during the requisite period. He states that he was living at [REDACTED] on the Second Floor in Brooklyn, New York and that the applicant began residing with him at his business address before 1982. It is noted here that in this affiant's January 27, 2005 affidavit he stated that he and the applicant resided together in this declarant's apartment from September 1981 until June 1985. As the affiant now states that he resided on Fulton Street in Brooklyn at that time rather than on 131<sup>st</sup> Street in Ozone Park, this testimony regarding the applicant's address of residence from 1981 until 1985 is not consistent. Therefore, doubt is cast on whether this affiant has truthfully represented his knowledge of the applicant's address of residence from 1981 until 1985.

Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988).

The following affidavits from [REDACTED]

- An affidavit from M [REDACTED] that is notarized and is dated February 1, 2005. In this affidavit, the affiant states that the applicant worked for him for ten (10) years from July 1986 and lived at his business address at [REDACTED] in Brooklyn from June 1986 until June 1999. Here, though the affiant states that the applicant resided at his

business address during the requisite period, he failed to submit evidence that he had a business at that address at that time. He further failed to submit evidence that he himself resided in the United States during the requisite period. He did not indicate how he met the applicant or whether he first met him in the United States. He failed to indicate whether there were periods of time during which he did not see the applicant. He did not indicate how he knew when the applicant began to work for him in 1986 as he indicated that he had no business records of the applicant's work at that time. Because it is significantly lacking in detail, this letter carries only minimal weight in establishing that the applicant resided in the United States from June 1986 until the end of the requisite period.

- A notarized letter from [REDACTED] that is dated November 8, 2004. In this affidavit, the affiant states that he has resided in the United States since 1973. He goes on to say that he personally knows that the applicant entered the United States in September 1981. He states that he first met the applicant in the United States in September 1981. He further states that the applicant traveled to visit his family in June 1985 and reentered the United States by entering through California at the border.
- A declaration from [REDACTED] that is not dated or notarized. Here, the declarant states that he first met the applicant in September 1981. He states that the applicant began residing at his house as soon as he began residing in New York. He goes on to say that he resided at [REDACTED] in Brooklyn during the requisite period. The testimony of this declarant is not consistent with the affidavits of [REDACTED] or with the applicant's Form I-687 regarding the applicant's first address in the United States. [REDACTED] indicated both that the applicant resided with him in his apartment, which he later indicated was on [REDACTED] in Brooklyn, and that he resided at his place of business in [REDACTED] on [REDACTED] from September 1981 until June 1985. Here, the declarant who lived on [REDACTED] in Brooklyn states that the applicant first resided with him when he came to the United States in September 1981. These inconsistencies cast doubt on the applicant's residence in the United States from 1981 until 1985.
- A photocopy of a notarized letter from [REDACTED] that is dated February 13, 1992. In this letter, [REDACTED] states that the applicant is his tenant and he asserts that he has personal knowledge that the applicant resided at the addresses the applicant showed on his Form I-687 for the duration of the requisite period.

Letters and affidavits from [REDACTED]

- A notarized letter from [REDACTED] that is dated November 8, 2004. In this affidavit the affiant states that he first met the applicant in the United States in 1984. He states that he has been in the United States since 1983. Though the affiant has only been in the United States since 1983 and met the applicant in 1984 he states that it is personally known to him that the applicant entered the United States in September 1981. He fails to say how he personally knows this, as he was not in the United States at that time. He further states that

the applicant traveled to visit his family in June 1985 and reentered the United States by entering through California at the border.

- An undated declaration from [REDACTED] that is not notarized. Here, the declarant states that he first met the applicant in December 1983 at the applicant's home.

Other declarations:

- An undated declaration from [REDACTED] who states that he first met the applicant in 1981 at a community meeting at his friend's house in Brooklyn. Here, he does not provide an address where this meeting took place. He indicates that he was not in the United States when the applicant first entered.
- An undated statement from [REDACTED] that is not notarized. Here, the declarant states that he first met the applicant in 1975 in Bangladesh. He does not indicate an address at which it is personally known to him that the applicant resided during the requisite period.
- An undated declaration from [REDACTED] that is not notarized. He states that he first met the applicant in December 1981 when the applicant came to his house in New York to visit him. He states that he kept in contact with the applicant by phone and sometimes saw him at the grocery store.
- An undated declaration from [REDACTED] that is not notarized. Here, the declarant states that he first met the applicant in July 1986 in the Subway at 74<sup>th</sup> street and Roosevelt Avenue. He does not indicate how he knows the exact month that he met the applicant. He states that he first entered the United States in 1985.
- An undated declaration from [REDACTED] that is not notarized. Here, the declarant states that he first met the applicant in Bangladesh in 1979. He does not state when he entered the United States but indicates that he became a U.S. Citizen in May of 1996.
- An undated declaration from [REDACTED] that is not notarized. Here, the declarant states that he first met the applicant in 1983 when he was praying at the Madina Mosque. He states that he does not remember where he worked between January 1982 and May 1988. When he is asked to indicate when he entered the United States he does not show a date. He asserts that he is now a citizen.
- An undated declaration from [REDACTED] that is not notarized. In this declaration, the affiant claims he met the applicant after the requisite period, in 1989. Therefore this declaration is not relevant evidence for this proceeding.
- An undated declaration from [REDACTED], the applicant's father that is not notarized. He states that he knows that the applicant came to the United States before 1982. However, he

does not provide details of how he knows the exact date that his son entered the United States before that date.

- An undated declaration from [REDACTED], the applicant's mother. This declaration is not notarized. Here, the declarant states that she knows that the applicant entered the United States before 1982 because he is her son. However, she fails to provide details of how she knows the date that her son entered the United States.

In each of these affidavits, the declarants fail to provide a place of residence at which it was personally known to them that the applicant resided during the requisite period. They have not submitted proof that they have resided in the United States for part or all of the requisite period. In the case of the applicant's parents, they have stated that they did not reside in the United States during that time. These declarants further fail to state the frequency with which they saw the applicant during the requisite period. Because of their significant lack of detail, these declarations can be afforded little weight in establishing that the applicant resided continuously in the United States for the duration of the requisite period.

Two letters from churches or organizations:

- A letter from the Bangladesh Society that is signed by [REDACTED] who indicates he is the General Secretary of the society. In this letter, [REDACTED] states that the applicant has volunteered during cultural events and ceremonies since 1984.
- A photocopy of an unnotarized letter from the Islamic Council of America Inc., the Madina Masjid that was signed by [REDACTED] and is dated February 2, 2005. In this letter, [REDACTED] states that the applicant has been regularly participating in their weekly prayer since 1981. It goes on to state that the Muslim Center appreciates his patronage from time to time. Here, this letter does not state how the Masjid knows the start date of the applicant's membership was in 1981. It does not indicate whether the applicant attended services every week or whether there were periods of time during which the applicant did not attend weekly prayer services during the requisite period. It is noted here that the applicant indicated that he resided in Nevada and worked in California from September 1985 until May 1986.

These letters fail to show the applicant's inclusive dates of membership. They further fail to show an address at which the applicant resided during his membership period. They do not state how the author of the letter can establish the applicant's start date as a member of their organization. The regulation at 8 C.F.R. § 245a.2(d)(3)(v) states that attestations by churches, unions or other organizations can be considered credible proof of residence if such documents contain these elements. As these letters are lacking with regards to these criteria, they are not deemed to be credible proof of the applicant's residence during the requisite period.

It is noted that the applicant also submitted documents including: an affidavit from [REDACTED] an employment verification letter from Mobil Car Service; a Taxi Driver's license a Certificate of

Title for a 1998 Lincoln Town Car; tax documents from 2002; and photocopies of the applicant's passport that do not pertain to the requisite period. However, the issue in this proceeding is whether the applicant met his burden of proving that he resided in the United States from before January 1, 1982 until the end of the requisite period (which is the date the applicant attempted to file for legalization during the original filing period, between May 5, 1987 and May 4, 1988). Because these documents verify the applicant's residence in the United States after that time they are not relevant evidence for this proceeding.

The director issued a Notice of Intent to Deny (NOID) on July 24, 2006. In her NOID, the director stated that she intended to deny the application for the following reasons:

1. The applicant did not furnish evidence of his entry without inspection on September 28, 1981, such as a document showing a valid entry at that time. It is noted here that the AAO finds it is unreasonable to expect an individual who entered without inspection to produce a document showing a valid entry. Those who enter without inspection, by the nature of their entry, do not obtain documents showing a valid entry.
2. The applicant filed for other benefits in late 1988, and it is not credible that the applicant would have applied for status as a temporary worker at the same time that he was applying for other benefits. It is noted here that the applicant indicated he was front desked during the original filing period. Therefore, it is plausible that he applied for other immigration benefits after that time.
3. The applicant's affidavits do not contain identity documents or proof that the affiants were in the United States during the statutory period. Here, the director noted that credible affidavits are those that include documents identifying the affiant, proof that an affiant was in the United States during the requisite period, and proof that there was a relationship between the affiant and the applicant. Here, the director found the affidavits submitted by the applicant were lacking with regards to these criteria.
4. There are inconsistencies regarding the applicant's addresses of residence during the requisite period in the record.
5. Employment letters were not submitted with evidence that those employers were in business during the requisite period.

The director afforded the applicant thirty (30) days within which to submit additional evidence in support of his application.

In response to the director's NOID, the applicant submitted a brief dated August 18, 2006. In this brief, the applicant stated that he has additional proof that he resided in the United States in the form of envelopes mailed by his mother from Bangladesh. He asserts that he attempted to

file his Form I-687 during the original filing period on March 23, 1988. He goes on to say that he is submitting additional affidavits in support of his application.

The documents submitted with the applicant's response to the director's NOID are as follows:

Photocopies of envelopes mailed to the applicant:

- A photocopy of an envelope from [REDACTED] living in Florida to the applicant in New York. The postmark on this letter indicates it was mailed from Fort Lauderdale on October 22, 1987.
- A photocopy of an envelope from the applicant's mother to the applicant at [REDACTED] in Reno, Nevada mailed October 28, 1985.
- Photocopies of envelopes from the applicant's mother mailed to the applicant in South Ozone Park on March 10, 1984, January 9, 1983, and March 8, 1982.

Though the applicant has submitted photocopies of these envelopes, they prove that individuals mailed letters to the applicant on five (5) occasions. However, these photocopies of envelopes do not prove that the applicant continuously resided at those addresses during the requisite period.

Affidavits:

- An affidavit from [REDACTED] that is notarized and is dated August 21, 2006. Though he was not required to do so, the affiant submitted a photocopy of his New York State Driver's License as proof of his identity. Here, [REDACTED] states that he has resided in the United States since 1980. He goes on to say that he first met the applicant in December 1981 at his house. He states that the applicant was continuously present in the United States for the duration of the requisite period and that he knows the applicant was continuously present in the United States from 1986 until 1988. He provides a phone number at which he can be reached to verify information in this affidavit.
- An affidavit from [REDACTED] that is notarized and is dated August 21, 2006. Though he is not required to do so, he submits a photocopy of his New York State Drivers License as proof of his identity. In this affidavit, the affiant states that he has resided in the United States since 1974. He goes on to say that the first time he met the applicant was in September 1981. He states that he gave shelter to and employed the applicant and asserts that the applicant was continuously present in the United States for the duration of the requisite period. He states that he knows the applicant was continuously present in the United States from 1986 until 1988. He provides a telephone number at which he can be reached to verify information in his affidavit.

- An affidavit from [REDACTED] who states he has resided in the United States since 1973. Though he is not required to do so, he submits a photocopy of his New York State Driver's License as proof of his identity. He goes on to say that the first time he met the applicant was in September 1981 at his place of work. He asserts that the applicant was continuously present in the United States for the duration of the requisite period. He states that he knows the applicant was continuously present in the United States from 1986 until 1988. He provides a telephone number at which he can be reached to verify information in his affidavit.
- A photocopy of an affidavit from [REDACTED], who indicates he is the Vice President of the Madina Masjid. This affidavit is dated August 16, 2006. In this affidavit, [REDACTED] states that he was the Imam of the Madina Masjid from 1982 until 1986. He states that the applicant regularly attended prayer at the mosque until 1985. Here, the affiant does not state when the applicant began attending his mosque, nor does he indicate whether the applicant attended prayers daily, weekly or only occasionally.
- A letter from [REDACTED] that is dated February 18, 1987. In this letter, [REDACTED] indicated that the applicant was first examined by him on May 10, 1982. Here, the doctor does not indicate where he examined the applicant or whether it was in the United States. This is of note because according to the New York State Office of the Professions, though this applicant graduated from medical school in Panjab University in India in 1974, this affiant did not obtain his license to practice medicine in the United States until July 29, 1985. Because this letter indicates that the applicant was examined by a doctor on a date that was approximately three (3) years before he was licensed to practice medicine in the United States, no weight can be given to this letter as proof that the applicant resided in the United States during the requisite period.

In her decision, dated September 21, 2006, the director noted that her office received a timely response to her NOID. However, she stated that the applicant continued to fail to meet his burden of proof. Therefore, she denied the application.

On appeal, the applicant submits a brief in which he states that he has no records from the requisite period and therefore he has not submitted any contemporaneous evidence in support of his application. He notes that he has submitted identity documents and contact information for the affiants from whom he submitted affidavits.

However, the AAO questions the credibility of previously submitted documents and statements. Specifically of note is the letter from [REDACTED], who asserts that he examined the applicant three (3) years before he was licensed to practice medicine in the United States, the fact that the applicant claimed to have lived in Reno, Nevada when he was working in El Centro, California which was six hundred ten (610) miles from his home, and the of inconsistencies regarding the applicant's address of residence from 1981 until 1985 as previously noted. These inconsistencies cast doubt on the evidence submitted by this applicant in an attempt to support his application.

In summary, the applicant has not provided sufficient credible any evidence of residence in the United States during the requisite period. The applicant's statements and the letters he submitted in support of his application lack credibility and probative value for the reasons noted.

In this case, the absence of credible and probative documentation to corroborate the applicant's claim of continuous residence for the entire requisite period, as well as the inconsistencies and contradictions noted in the record, seriously detract from the credibility of his 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 inconsistencies in the record and the lack of credible supporting documentation, it is concluded that he has failed to establish by a preponderance of the evidence that he has continuously resided in an unlawful status in the United States for the requisite period 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.