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U.S. Citizenship  
and Immigration  
Services

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[REDACTED]

FILE: [REDACTED]  
MSC-06-096-14926

Office: NEW YORK

Date: DEC 29 2006

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. If your appeal was sustained, or if your case was remanded for further action, you will be contacted. If your appeal was dismissed or rejected, 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.

John F. Grissom, Acting 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 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 (together comprising the I-687 Application). The director denied the application, finding that the applicant had failed to establish by a preponderance of the evidence that he entered the United States before January 1, 1982 and has continuously resided in the United States in an unlawful status for the duration of the requisite period. The director specifically noted the applicant had submitted affidavits that are not amenable to verification, and thus, are not credible.

On appeal, counsel for the applicant asserts that the affidavits submitted are all bona fide and genuine. All affiants made their statements in good faith and are willing and able to confirm their assertions. Counsel further states that there should be no reason why the director denied the application.

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).

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)(1) 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). To meet his or her burden of proof, an applicant must provide evidence of eligibility apart from the applicant's own testimony. 8 C.F.R. § 245a.2(d)(6).

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, "[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 applicant 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 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 sole issue in this case is whether the applicant has furnished sufficient credible evidence to establish his entry into the United States prior to January 1, 1982 and continuous unlawful residence since such date through the date he attempted to file the application.

The applicant testified during interview that he entered the United States from Canada without inspection on August 18, 1981. To show continuous residence in the United States since that date, he submitted seven affidavits from friends and families and two letters from two organizations.

As stated above, the volume of evidence is not necessarily the decisive factor in the search for the truth. The contents of the affidavits must be assessed and the quality of the evidence determined. *Matter of E-M-*, *supra* at 82. Affidavits containing specific, personal knowledge of the applicant's whereabouts during the time period in question have greater weight than fill-in-the-blank affidavits providing generic information. Upon review of the affidavits, the AAO finds that these affidavits do not include sufficient detail from a claimed relationship to indicate that the relationship probably did exist and the witness does, by virtue of that relationship, have knowledge of the facts alleged. The affiants' statements such as "[redacted] (the applicant) is my close friend" or "I know [redacted] since he was little" are not persuasive as evidence of the applicant's claim of residence in the United States since 1981. Because these

affidavits are significantly lacking in relevant detail, they lack probative value and have only minimal weight as evidence of the applicant's residence in the United States during the requisite period.

The letter from a mosque, Madina Masjid, state the applicant was a committee member and a regular attendant of the mosque from 1981 to 1990. The author of the letter from Bangladesh Society Inc., New York, attests to the applicant's entry into the United States before January 1, 1982 and continuous unlawful residence in the United States since such date. Both letters further indicate that the applicant has good moral character, but no other detail about the applicant's membership is provided. The regulations at 8 C.F.R. § 245a.2(d)(3)(v) provide specific requirements as to what a letter from an organization should contain. Letters from organizations that do not comply with the specific requirements do not have to be accorded as much evidentiary weight as letters that otherwise comply. In this case, the authors of the letters fail to include inclusive dates of the applicant's membership, the address or addresses where the applicant resided during membership period, how the authors of the two letters know the applicant, and where they acquire the information relating to his membership in their organizations. Because these letters fail to include most of the critical information about the applicant's membership as set by the regulations, they can only be accorded minimal weight as evidence of the applicant's claim of eligibility for the benefit.

On appeal, counsel asserts that the affidavits and the letters are made in good faith, and their contents are bona fide and genuine. As indicated above, however, the burden is upon the applicant to establish that he meets the preponderance of the evidence standard that he is eligible for the benefit. The burden is met when sufficient relevant, credible, and probative evidence is submitted to show that the applicant's claim is probably true. The documentation submitted in this case lacks sufficient detail and is in compliance with the prescribed regulations, and therefore, can only be accorded minimal weight as evidence of eligibility for the benefit sought.

The absence of credible and probative documentation to corroborate the applicant's claim of continuous residence for the entire requisite period and lack of detail 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 lack of credible supporting documentation, it is concluded that the applicant 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.