

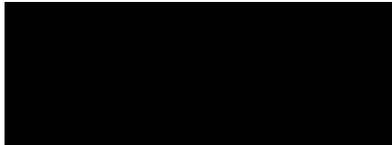
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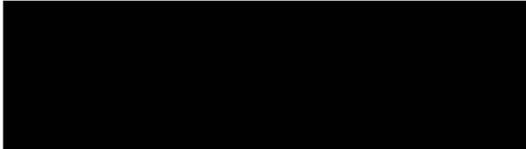
FILE: [REDACTED] Office: TUKWILA WASHINGTON
MSC 04 300 10969

Date: OCT 15 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:



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.


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, Tukwila, Washington. The matter is now before the Administrative Appeals Office 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 (the 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 during the requisite period. On appeal, counsel submitted a brief.

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 (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)(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).

As to the requirement of continuous residence in the United States from January 1, 1982 through the date the application is filed, the regulation at 8 C.F.R. § 245a.2(h)(1) provides that an applicant shall be regarded as having resided continuously if no single absence during the salient period was longer than 45 days and the aggregate of all absences does not exceed 180 days.

As to continuous physical presence since November 6, 1986, 8 U.S.C. § 1255a(a)(3) states, “[a]n alien shall not be considered to have failed to maintain continuous physical presence in the United States . . . by virtue of brief, casual, and innocent absences from the United States.”

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, *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 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.

On the Form I-687 application, which the applicant signed on July 3, 2004, the applicant was required to provide an exhaustive list of his residences in the United States since his first entry. As part of that residential history, the applicant stated that he lived (1) at [REDACTED] in Fresno, California from September 1981 to August 1985, (2) at [REDACTED] in Fresno, California from August 1985 to June 1987, and (3) at [REDACTED] in San Jose, California, from June 1987 to June 1994. The applicant did not indicate that he had entered the United States prior to September 1981.

The applicant was also required to provide an exhaustive list of all of his employment in the United States since January 1, 1982. As part of that employment history, the applicant stated that he worked from April 1982 to October 1990 as a self-employed ice cream vendor. He indicated that from October 1990 to October 1991 he worked as a deliveryman for a Domino's Pizza franchise in San Jose, California. The applicant listed no other employment during prior to October 1991 and no U.S. employment at all prior to April 1982.

The applicant stated, at item 31 of the Form I-687, that he was affiliated with the Sikh temple in San Jose, California, from September 1981 through June 1994.

The pertinent evidence in the record is described below.

The record contains a Form for Determination of Class Membership in *CSS v. Meese*. The applicant stated that he first entered the United States on September 9, 1981, entering without inspection.

The record contains a letter, dated December 22, 1989, from a [REDACTED] president of the Sikh temple in Turlock, California. Mr. [REDACTED]; first name is not legible in his signature and his name is not stated elsewhere on that letter. Mr. [REDACTED] stated that the applicant, then residing at [REDACTED] in Turlock, California, had been a member of the Turlock congregation since 1985. The record also includes a pre-printed receipt from the Sikh Temple in Turlock, California, acknowledging that the applicant paid \$5.25 to the temple on January 1, 1986. That receipt also states that the applicant's address was then [REDACTED] in Turlock, California.

As was noted above, the applicant stated on the instant Form I-687 application, that he lived at [REDACTED] in Fresno, California from September 1981 to August 1985, at [REDACTED] in Fresno, California from August 1985 to June 1987, and at [REDACTED] in San Jose, California, from June 1987 to June 1994. The applicant did not state that he lived at [REDACTED] in Turlock, or at any address in Turlock, at any time, and specified that during the period including January 1, 1986 he lived at [REDACTED] in Fresno, California, which is approximately 80 miles from Turlock, California.

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, the applicant must resolve any inconsistencies in the record with competent, independent, objective evidence. Attempts to explain or reconcile such inconsistencies, absent competent objective evidence sufficient to demonstrate where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (Comm. 1988).

- The record contains a Form I-705 Affidavit Confirming Seasonal Agricultural Employment, which the applicant signed on July 16, 1990. That affidavit states that the applicant was then living at [REDACTED] in Turlock, California. It further indicates that the applicant worked for the affiant, [REDACTED], at his [REDACTED] Ranch, in Merced laboring in his sweet potato fields, during 1982, 1983, 1984, and 1986. The affiant stated that the applicant worked for 136 days from May 3, 1982 to October 16, 1982, for 128 days from April 28, 1983 to October 13, 1983, for 126 days from May 1, 1984 to October 14, 1984, and for 153 days from May 2, 1986 to October 2, 1986.

Again, this office notes that the applicant indicated, on the instant Form I-687 application, that he never lived in Turlock, California. Further, as was noted above, the applicant was required to provide an exhaustive list of all of his employment in the United States since January 1, 1982. The applicant did not then indicate that he ever worked in agriculture.

- The record contains a declaration, dated July 21, 1990, from [REDACTED]. This declaration contains an address in Turlock, California. That affidavit gives the applicant's address as [REDACTED], Anaheim, California. It states that the applicant lived with the affiant from June 1981 to December 1984, from January 1986 to May 1987, and from June 1987 to August 1989.

Although that declaration bears a notary's seal, the notary did not attest to the declarant's signature, did not state that he administered an oath to the declarant, and did not even sign the document. As such, the notary's seal does not convert that declaration to an affidavit or otherwise lend to its evidentiary value. In fact, that a purported notary public is unaware of the procedure for attesting to a document raises the suspicion, at least, that the person who applied that signature and seal is not actually a notary.

Further, as was noted above, the applicant indicated on the instant application that he never lived in Turlock, California. Further still, the declarant's assertion that the applicant lived at some particular address during those three periods, June 1981 to December 1984, January 1986 to May 1987, and June 1987 to August 1989, cannot be reconciled with the residential history the applicant provided on the Form I-687. Yet further, the applicant did not list any Anaheim, California addresses on the instant Form I-687.

Even further, the applicant stated, on the Form I-687 and on the Form for Determination of Class Membership in *CSS v. Meese*, that he did not enter the United States prior to September 1981. This declaration, however, states that the applicant was in the United States beginning in June 1981.

- The record contains an affidavit, dated July 18, 2001, from [REDACTED] whose address is not stated. The affiant stated that he works for Sun Microsystems in Newark, California, that he has known the applicant since 1983, and that the applicant also worked for Sun Microsystems during 1990.

Once again, this office notes that the applicant provided what he represented to be an exhaustive employment history beginning with his initial entry into the United States. The applicant stated that from April 1982 to October 1990 he only worked as a self-employed ice cream vendor, and that from October 1990 to October 1991 he only worked as a Domino's Pizza deliveryman. The assertion in this affidavit that the applicant worked for Sun Microsystems during 1990 is inconsistent with the applicant's own version of his employment history.

- The record contains an affidavit, dated July 21, 1990, from [REDACTED]. The affiant stated that, to his personal knowledge, the applicant lived (1) at [REDACTED] in Turlock, California from June 1981 to December 1984, (2) at [REDACTED] in Anaheim California from January 1985 to January 1986, (3) at the [REDACTED] Turlock, California address again from January 1986 to August 1989, and (4) at the [REDACTED]

[REDACTED], Anaheim, California address again from August 1989 until the date of that declaration, which is unstated.

This office reiterates that the applicant stated, on the instant Form I-687 application that he lived (1) at [REDACTED] in Fresno, California from September 1981 to August 1985, (2) at [REDACTED] in Fresno, California from August 1985 to June 1987, and (3) at [REDACTED] in San Jose, California, from June 1987 to June 1994.

This office will not laboriously itemize the differences between those two residential histories. The only similarity that stands out is that they both indicate that the applicant lived in California. They are otherwise in conflict. At least one of those residential histories is necessarily incorrect.

- The record contains an affidavit, dated August 26, 1990, from [REDACTED] of Fresno, California. That affidavit states that, to the personal knowledge of the affiant, the applicant lived in Fresno, California from September 1981 to June 1987, and in San Jose, California from June 1987 to the date of the affidavit. The affiant further stated that he and the applicant were roommates while he was living in Fresno. The residential history on that affidavit conflicts with the history the applicant provided on the Form I-687. Further, this office notes that the residential history provided on that affidavit conflicts with the residential history provided on the undated declaration of [REDACTED]. This record contains at least three competing versions of the applicant's residential history that do not appear amenable to reconciliation.
- The record contains a statement, dated May 23, 2002, from the applicant. The applicant stated that he first entered the United States on June 6, 1981, but did not state how he came to represent, on both the Form I-687 application, and on the Form for Determination of Class Membership, that he first lived in the United States during September 1981.

The applicant further stated that he would like to remove the affidavits of [REDACTED] and [REDACTED] from his application because those people are not known to him. The applicant indicated that those affidavits must have been added to his application package by the person who prepared the application.

This office will take into account that the applicant has denounced the affidavits of [REDACTED] and [REDACTED]. The opprobrium of having two fraudulent affidavits included with his application, however, cannot be completely erased. In any event, even if this office were to completely disregard that the applicant's application package included fraudulent affidavits, that would not reconcile all, or even most, of the discrepancies in the record.

- The record contains an affidavit, dated July 26, 2002, from [REDACTED] of Ripon, California. The affiant stated that he met the applicant in India during 1977, and they resumed their acquaintance during 1981 when the applicant entered the United States from

Canada. The affiant stated that they often met at the Sikh temple in Stockton, California, and that he often gave the applicant a ride to the Sikh temple in Turlock, California.

- The record contains an affidavit, dated June 2, 2004, from [REDACTED] of Union City, California, stating, in pertinent part, that he has known the applicant since 1984, meeting him “off and on” at the Sikh temple in Yuba City.
- The record contains a letter dated August 9, 2002 from [REDACTED] of Redding, California. [REDACTED] stated that he met the applicant during 1987 when the applicant had the flu, and that he was unable to write a prescription for him then because he had no proof of insurance or identification.
- The record contains an affidavit, dated July 3, 2002, from [REDACTED] of Delta, British Columbia, in Canada. The affiant stated that he has lived in Canada since February 1981, and has known the applicant since before that time, when he lived in India. He further stated that the applicant entered the United States from Canada during 1981, although he did not remember the month.
- The record contains an affidavit, dated May 21, 2002, from [REDACTED] of [REDACTED] in Ballico, California. The affiant stated that he has known the applicant since before they came to the United States, when they were in India. He stated that the applicant came to the United States during June 1981 and started living with the affiant at about that same time.

The affiant also stated that the applicant went to Canada during 1987 in order to apply for Legalization there, but found that they had no such program, and instead stayed with a relative for about three weeks.

- The record contains an affidavit, dated August 23, 1990, from [REDACTED] of Fresno, California. That affidavit stated that the affiant and the applicant went to Canada together by car, although it did not state the date or year. Although he stated that they went for a pleasure trip, he also stated that they had heard from a mutual friend that Canada was offering Legalization, and went to apply, then returned home when they found that no such program existed in Canada.
- The record contains a photocopy of a portion of another declaration, dated May 21, 2002. Even the portion of the declaration provided, including the declarant’s name, is largely illegible. Whether that declaration is relevant to any material issue in this matter is unknown to this office. That declaration will be accorded no evidentiary weight.
- The record contains an affidavit, dated July 22, 2001, from [REDACTED]. The affiant stated that he met the applicant at a Sikh temple on Quimby Road in San Jose during 1981, but provided no other relevant detail.

The record contains no other evidence pertinent to the applicant's residence in the United States during the salient period.

- The record shows that the applicant was arrested, on December 18, 1990, for a violation of section a violation of section 20002(a) of the vehicle code, hit and run, a misdemeanor. On February 4, 1991, in San Jose, California, the applicant was convicted of that violation pursuant to his plea of *nolo contendere*. The applicant fined \$100 and placed on two years probation. (Case number [REDACTED])
- The applicant was arrested, on December 31, 1996, in Alameda County, California for a violation of section 23152(a) of the California Vehicle Code, driving under the influence of alcohol or drugs. On February 20, 1997, the applicant was convicted, pursuant to his plea of *nolo contendere*, of that offense, which is a misdemeanor. The applicant was sentenced to three years of probation, with five days of jail as a condition of his probation, and was fined \$1,214. (Docket number [REDACTED])

In a Notice of Intent to Deny (NOID), dated August 10, 2006, the director stated that the applicant failed to submit evidence sufficient to demonstrate his entry into the United States prior to January 1, 1982, and continuous residence during the requisite period. The director granted the applicant thirty days to submit additional evidence.

In response, counsel asserted that the evidence submitted is sufficient to demonstrate the applicant's eligibility. Counsel also submitted additional copies of letters, declarations, and affidavits previously submitted. That response was dated August 31, 2006 and received on September 1, 2006.

The record contains a brief dated September 8, 2006 and submitted on September 11, 2006. In that brief counsel itemized and described some of the evidence in the record and reiterated that the evidence in the record justifies approval of the application.

Counsel cited *Vera-Villegas v. INS*, 330 F.3d 1222 (9th Cir. 2003) for the proposition that the application may not be denied solely because the applicant's assertions, letters, and affidavits are not supported by contemporaneous evidence.

The record also contains a brief counsel submitted on September 29, 2006. In that brief counsel again itemized and described some of the evidence in the record and reiterated, yet again, that the evidence in the record justifies approval of the application. Counsel also reiterated her argument pertinent to *Vera-Villegas v. INS*, supra.

In the Notice of Decision, dated November 22, 2006, the director denied the application based on the reason stated in the NOID, that is, that the evidence submitted to show that the applicant entered the United States prior to January 1, 1982 and continuously resided in the United States during the requisite period is insufficient.

On appeal, counsel again argued that the evidence submitted is sufficient to demonstrate the applicant's eligibility. Counsel noted that no mention is made in the decision of denial of an affidavit from [REDACTED]. This office notes that no affidavit from [REDACTED] was then in the record. Further, although, on appeal, counsel provided additional copies of much of the evidence, counsel still did not provide an affidavit from [REDACTED]. Counsel also noted that the decision of denial does not include any reference to the affidavit of [REDACTED]. This office reminds counsel that the applicant renounced that affidavit, claiming that he does not know [REDACTED]. Any argument that relies on that affidavit is likely to be unconvincing.

Initially, this office notes that counsel has correctly cited a decision of the U.S. Circuit Court of Appeals for the 9th Circuit in a case originating in the 9th circuit. That case is binding precedent in this matter. This office concurs that the lack of contemporaneous documentary evidence is an insufficient reason to deny an application. This office further notes that the applicant submitted some contemporaneous documentation. The record, as was noted above, contains what purports to be a receipt issued to the applicant by a Sikh temple on January 1, 1986. The decision of denial was clearly not based upon the applicant's failure to submit contemporaneous evidence.

On September 19, 2008 this office sent the applicant a notice of adverse evidence. As to the residential histories provided, that notice observed (1) that the residential history asserted in the December 22, 1989 letter from the president of the Sikh temple in Turlock, California, the Form I-705 affidavit, and the July 21, 1990 declaration from [REDACTED] conflicts with the residential history the applicant provided on his Form I-687, (2) that the detailed residential history provided on the July 21, 1990 affidavit from [REDACTED] is entirely different from the residential history the applicant provided on the Form I-687 application and from the residential history provided on the other conflicting evidence, and (3) that the residential history on the August 26, 1990 affidavit of [REDACTED] differs from all of the other residential histories submitted.

As to the employment histories provided, the notice observed (1) that the employment history the applicant provided on the Form I-705 affidavit differs from the employment history the applicant provided on the Form I-687 application, and (2) that the employment history on the July 18, 2001 affidavit from [REDACTED] also conflicts with the employment history the applicant provided on the Form I-687 application.

That notice further observed (1) that the statement on the December 22, 1989 letter from the Turlock, California Sikh temple, that the applicant has been a member of that temple since 1985 appears to conflict with the applicant's assertion, on the Form I-687 application, that he has been affiliated with the Sikh temple in San Jose, California since September 1981, (2) that the July 21, 1990 declaration from [REDACTED] states that the applicant has been in the United States since June 1981, whereas the applicant stated, on the Class Membership Determination Form, that he first entered the United States on September 9, 1981, (3) that irregularities in the notary's seal on the July 21, 1990 declaration from [REDACTED] appear to indicate that the person who represented himself to be a notary is not, in fact, a notary, and (4) that CIS had complied with a FOIA request submitted by counsel.

Counsel was accorded 20 days to respond to the notice of adverse evidence. In response, counsel submitted a brief. In the brief, counsel characterized the discrepancies between the applicant's claims on the instant Form I-687 application and the evidence as minor. Counsel stated that the applicant was unable to provide an account of all of his addresses because his lack of English language skills precluded his knowing the many addresses at which he lived during the period of requisite residence. As to the conflicts in his employment histories, counsel stated that the applicant worked many jobs in many places, and is unable to remember them all because of their large number and his inability to read, write, and speak English well.

Counsel stated that the applicant did not provide an exhaustive list of the Sikh temples he attended in the United States, but that he attended Sikh temples wherever he happened to be and considered himself a member of those temples.

Counsel asserted that the applicant's due process rights were violated because 20 days is insufficient time to respond to the discrepancies that counsel characterized as minor. In support of that contention, counsel cited *Huezo v. INS*, an unpublished decision of the United States Circuit Court of Appeal for the 9th district, the text of which is available at 1997 WL 685995.

Finally, counsel stated that the applicant had sustained his burden pursuant to the preponderance of the evidence standard, and that the application should therefore be approved.

This office will first address counsel's assignment of procedural error, that is, that this office was obliged to provide the applicant more than 20 days to respond to the adverse evidence cited in the September 19, 2008 notice. Nothing in the opinion cited, *Huezo v. INS*, supra, supports the proposition for which counsel cited it. Further, that the decision is unpublished makes clear that the court intended it to have no precedential effect. Counsel's citation, for both reasons, is spurious.

Further, counsel's response to the conflicting residential and employment histories was to assert that the applicant's language skills precluded him from providing accurate information on the Form I-687 application. It is unclear that additional time would have permitted the applicant to provide more accurate accounts of his residence and employment during the period of requisite residence. Counsel did not indicate that he would have submitted additional argument or new evidence in support of that proposition if accorded additional time, and this office does not perceive that additional time would have strengthened counsel's position. In the absence of any authority to the contrary, this office finds that the applicant was accorded sufficient time to respond to the September 19, 2008 notice.

Further still, counsel's explanation of the discrepancies in the record amounts to an admission that the applicant misrepresented his residential and employment histories. That admission does nothing to reform the applicant's credibility.

The substantive issue in this matter is whether the applicant has furnished sufficient credible evidence to demonstrate entry into the United States prior to January 1, 1982, and continuous residence during the requisite period.

The evidence includes many serious discrepancies, described above. On appeal, counsel did not address the conflict between the applicant's statement that he entered the United States during September 1981 and [REDACTED]'s assertion that the applicant lived with him in the United States beginning in June 1981, other than to characterize that discrepancy as minor. Counsel did not discuss the irregularities in the notary's attestation to the July 21, 1990 declaration of [REDACTED].

Counsel's argument pertinent to the representations of the applicant's membership in, attendance at, and affiliation with various Sikh temples is unconvincing. That a person who lived in various locations for short periods, and held various positions in those locations for short periods, might attend religious services at various temples close to those locations is perfectly plausible.

The applicant, however, has never claimed to have lived and worked at various unenumerated locations. He claimed to have held only one job during the period of requisite residence and to have lived at only three listed locations. Counsel has urged to the contrary, but the assertions of counsel are not evidence. See *INS v. Phinpathya*, 464 U.S. 183, 188-89 n.6 (1984); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503 (BIA 1980).

As to the discrepancies between the applicant's residential and employment histories as he reported them on the Form I-687 and as they were represented in the evidence submitted, counsel indicated that a lack of English language skills prevented the applicant from listing all of his residences and employment. This office notes that the applicant did not indicate, on the application, that he had worked in other jobs at other locations but was unable to provide information about those jobs. Rather, he listed one job and indicated that he worked in that job from April 1982 through the end of the period of requisite residence.

Similarly, the applicant did not state that he lived at numerous addresses but is now unable to provide those addresses because of his limited memory and lack of English skills. Rather, he indicated that he lived at [REDACTED] in Fresno, California from September 1981 to August 1985, at [REDACTED] in Fresno, California from August 1985 to June 1987, and at [REDACTED] in San Jose, California, from June 1987 to June 1994. The entire period of requisite residence is accounted for in that residential history. The applicant represented that throughout the entire period of requisite residence he lived at those three addresses and at no others. Counsel's explanation conflicts with the applicant's assertions and, as was noted above, is not evidence. The evidence presented cannot be reconciled with that complete history by reference to poor language skills and multiple residences.

The various discrepancies between the applicant's assertions and his evidence greatly diminish the credibility of the applicant's assertions and the value of the evidence submitted. The evidence must be evaluated not by the quantity of evidence alone but by its quality. 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 its amenability to verification. Given the paucity of credible supporting documentation the applicant has failed to meet his burden of proof and failed to

establish continuous residence in an unlawful status in the United States during the requisite period. The applicant is, therefore, ineligible for temporary resident status under section 245A of the Act. The application was correctly denied on this basis, which has not been overcome on appeal. The appeal will be dismissed on that basis.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.