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U.S. Department of Homeland Security  
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U.S. Citizenship  
and Immigration  
Services

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61

FILE:   
MSC-06-068-12812

Office: MOUNT LAUREL

Date: **SEP 10 2008**

IN RE: Applicant: 

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. 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.

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, Mount Laurel. 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 denied the application on December 28, 2006. The director determined that the applicant failed to establish, by a preponderance of the evidence, continuous unlawful residence in the United States throughout the requisite period.

On appeal the applicant states that the director's decision was erroneous and should be reversed. The applicant has not submitted additional evidence on appeal.

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)(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).

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 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 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.

The record shows that the applicant submitted a Form I-687 application and Supplement to Citizenship and Immigration Services (CIS) on December 7, 2005. The applicant submitted the following documents in support of her application:

- Two statements from [REDACTED], the applicant’s grandmother. One statement is dated January 15, 2006 and the other is not dated. The declarant states that the applicant and her husband resided with the declarant in her apartment located at [REDACTED] in Philadelphia, Pennsylvania from November 1980 until 1984. The applicant did not list this residence on her Form I-687 application. The declarant also states that the applicant worked as a housemaid during the requisite period; however, the applicant did not list any employment on her Form I-687 application.
- A statement from [REDACTED] in which the declarant states that he first met the applicant in December 1980. The declarant explains that he first met the applicant at his uncle’s house during a Christmas Eve dinner in 1980. The declarant further states that the applicant attended the dinner with her aunt, [REDACTED]. This conflicts with the statement by [REDACTED] a, in which she states that the applicant is her granddaughter. Further, the statement lacks details such as the nature and frequency of the declarant’s contact with the applicant. Lacking such relevant detail, the statement can be afforded only minimal weight as evidence of the applicant’s residence in the United States during the requisite period.
- A statement from [REDACTED]. The declarant states that he met the applicant in July 1981 at St. Jude Monastery. The declarant states that he met the applicant after a mass service when parishioners would gather for coffee. The declarant does not claim to have personal knowledge of the applicant’s residence during the requisite period. The declarant does not provide details regarding the frequency or nature of his contact with the applicant during the requisite period. Given these deficiencies, the statement has little probative value

and will be given minimal weight as evidence of the applicant's residence during the requisite period.

- A statement from [REDACTED]. The statement is not dated. The declarant states that he met the applicant in June of 1981 when [REDACTED] and the applicant visited the declarant at his home. The declarant does not indicate that he saw the applicant at any other time during the requisite period, nor does he claim to have personal knowledge of the applicant's residence during the requisite period. Further, under the heading "please comment about your relationship with the applicant," the declarant "None personally. Last 8-9 years ago." Given these deficiencies, the affidavit has little probative value and will be given minimal weight as evidence of the applicant's residence in the United States during the requisite period.

In addition, the applicant submitted documents that fall outside of the requisite period. These include copies of earnings statements from 2006, bills from 2005 and a bank statement from 2005. As these fall outside of the requisite period, they have no probative value as evidence of the applicant's residence during the requisite period.

The evidence must be evaluated not by the quantity of evidence alone but by its quality. *Matter of E-M-*, *supra* at 80. The absence of sufficiently detailed documentation to corroborate the applicant's claim of continuous residence for the entire requisite period seriously detracts from the credibility of her 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 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 for the requisite period. 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.