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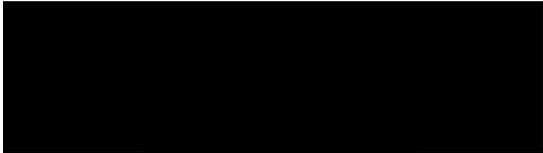
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U. S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



**U.S. Citizenship
and Immigration
Services**

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FILE: 
MSC-05-232-12863

Office: LOS ANGELES

Date: **APR 15 2009**

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. 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.

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 District Director, Los Angeles. 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, finding that the applicant had not established by a preponderance of the evidence that she had continuously resided in the United States in an unlawful status for the duration of the requisite period.

On appeal, the applicant furnishes additional evidence to corroborate her 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 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 245(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). To meet his or her burden of proof, an applicant must provide evidence of eligibility apart from his or her own testimony, and the sufficiency of all evidence produced by the applicant will be judged according to its probative value and credibility. 8 C.F.R. § 245a.2(d)(6).

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.

The issue in this proceeding is whether the applicant (1) entered the United States before January 1, 1982 and (2) has continuously resided in the United States in an unlawful status for the requisite period of time. The documentation that the applicant submits in support of her claim to have arrived in the United States before January 1982 and lived in an unlawful status during the requisite period consists of affidavits of relationship written by friends, employment verification statements, and various receipts. Some of the evidence submitted indicates that the applicant resided in the United States after May 4, 1988; however, because evidence of residence after May 4, 1988 is not probative of residence during the requisite time period, it shall not be discussed. The AAO has reviewed each document in its entirety to determine the applicant's eligibility; however, the AAO will not quote each witness statement in this decision.

The record contains an employment verification letter from [REDACTED] dated June 20, 2002, which states that the applicant provided child care to his daughter at her residence in North Hollywood, California from February 1983 to March 1984. However, the applicant's employment as a child care provider from February 1983 to March 1984 is not corroborated on her Form I-687 application. Her application states that she was self-employed in “labor” from December 1981 to 1984. Furthermore, [REDACTED]'s letter fails to provide sufficient detail to verify his claim. The letter does not indicate how he first became acquainted with the applicant. Nor does it indicate how he was able to recall the dates the applicant provided child care to his daughter. For these reasons, this letter has minimal probative value.

The applicant showed on her Form I-687 application that she was employed as a housekeeper with [REDACTED] and [REDACTED] at [REDACTED] in Studio City, California from 1984 to 1993. The record contains a copy of an approval notice from the former Immigration and Naturalization Service (INS), dated September 17, 1988. The approval notice lists the applicant as the beneficiary of a sixth preference immigrant petition in the occupation of housekeeper. The notice shows that the immigrant petition was filed on February 8, 1988 by [REDACTED] and [REDACTED]. The applicant also furnished an invoice, dated April 2, 1988, issued by the attorney who filed her labor certification application. The invoice is addressed to the applicant at the residence of [REDACTED] in Studio City, California. Although these documents are evidence of the applicant's residence in the United States near the end of the requisite period in 1988, they do not cover the entire period the applicant purportedly was employed with [REDACTED] and [REDACTED].

Moreover, additional documentation in the record undermines the credibility of the applicant's claim of employment with [REDACTED] and [REDACTED] from 1984 to 1993. The record contains an undated form statement of work experience. The name of the employer who completed and signed this statement is not indicated on the form; however the signature does not appear to be of either [REDACTED] or [REDACTED]. The statement provides that the applicant was employed as a housekeeper at [REDACTED] from May 1985 to May 1986. This employment is inconsistent with the applicant's Form I-687 application. As stated above, her application states that she was employed at [REDACTED] Studio City, California from 1984 to 1993. These contradictions are material to the applicant's claim in that they have a direct bearing on her residence in the United States during the requisite period. 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. *See Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). The contradictions undermine the applicant's credibility as well as her claim of residence in the United States during the requisite period.

The record also contains affidavits of relationship from [REDACTED] and [REDACTED]. The affidavits all contain statements that the affiants attest to the applicant being physically present in the United States during the required period. These affidavits fail, however, to establish the applicant's continuous unlawful residence in the United States for the duration of the requisite period. As stated previously, the evidence must be evaluated not by the quantity of evidence alone but by its quality; an applicant must provide evidence of eligibility apart from his or her own testimony; and the sufficiency of all evidence produced by the applicant will be judged according to its probative value and credibility.

None of the witness statements provide concrete information, specific to the applicant and generated by the asserted associations with her, which would reflect and corroborate the extent of those associations and demonstrate that they were a sufficient basis for reliable knowledge about the applicant's residence during the time addressed in the affidavits. To be considered probative and credible, witness affidavits must do more than simply state that an affiant knows an applicant and that the applicant has lived in the United States for a specific time period. Their content must include sufficient detail from a claimed relationship to indicate that the relationship probably did exist and that the witness does, by virtue of that relationship, have knowledge of the facts alleged.

Upon review, the AAO finds that, individually and together, the witness statements do not indicate that their assertions are probably true. Therefore, they have little probative value.

The remaining evidence in the record consists of copies of numerous receipts and photographs. The photographs do not bear date stamps to show when they were taken and/or developed. Furthermore, the applicant has not indicated where the photos were taken and the identity of the individuals featured in the pictures. As such, the photographs are of little probative value.

The numerous money order receipts and retail receipts in the record have been reviewed. As with the photographs, these receipts fail to provide any information that would serve to link them to the applicant, such as her name and address. Moreover, the applicant furnished originals of three Continental Express Company money order claim receipts, which show that their issue date has clearly been altered with whiteout. Each of the receipts was altered to reflect the date 1985. The forged dates are material to the applicant's claim in that they have a direct bearing on the applicant's residence in the United States during the requisite period. Therefore, these documents as a whole have little probative value.

Lastly, the applicant furnished copies of United States Postal Service receipts for registered mail with postmarks ranging from April 1986 through October 1987, and a billing statement from [REDACTED], North Hollywood, California, dated January 10, 1987. The AAO finds that the credibility of these documents is undermined by the applicant's forged money order receipts. As stated previously, 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. *See Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Therefore, they are of minimal probative value.

Therefore, based upon the foregoing, the applicant has failed to establish by a preponderance of the evidence that she entered the United States before January 1, 1982 and 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.