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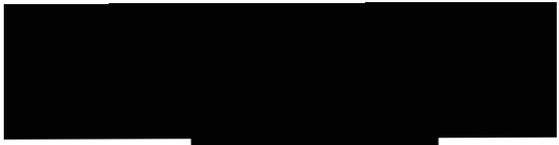
U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
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FILE: [REDACTED]  
MSC 06 054 12064

Office: CHICAGO

Date: APR 30 2009

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:

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 Director, Chicago. The decision 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, and a Form I-687 Supplement, CSS/Newman (LULAC) Class Membership Worksheet. The director denied the application because the applicant did not establish that he continuously resided in the United States for the duration of the requisite period.

A Form G-28, Notice of Entry of Appearance as Attorney or Representative, has been submitted by an individual who indicates he is a member of an immigration consulting service. However, he is not authorized to represent the applicant because he has not submitted a written declaration that he is appearing without direct or indirect remuneration as required by the regulations at 8 C.F.R. § 292.1(a)(3)(ii). Therefore, the applicant shall be considered as self-represented and the decision shall only be furnished to him.

On appeal, the applicant asserts his eligibility and submits his patient information form dated October 13, 1980 completed for Lakeside Medical Associates in Los Angeles, California, with an attached medical sheet showing he received treatments on April 22, 1981 and July 7, 1982.

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).

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 the evidence for relevance, probative value, and credibility, within the context of the totality of the evidence, to determine whether the facts to be proven are 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, 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.

The pertinent evidence in the record is described below.

1. The applicant’s patient information form dated October 13, 1980 completed for Lakeside Medical Associates in Los Angeles, California, with an attached medical sheet showing he received treatments on April 22, 1981 and July 7, 1982.
2. The applicant’s State of California identification card issued May 25, 1984.
3. The applicant’s State of California identification card issued March 25, 1985.
4. The applicant’s State of California driver’s license issued September 15, 1987.
5. The applicant’s identification cards from Wilson-Lincoln Community Adult School in Los Angeles, California, expiring November 1985 and January 1986.
6. The applicant’s General Educational Development test results issued to him on February 21, 1986 in Los Angeles, California.
7. The applicant’s achievement award dated March 20, 1986 from the Los Angeles Unified School District for receiving 92 hours of instruction in “ESL transition.”
8. The applicant’s Adult School Eighth Grade Diploma dated June 12, 1986 from the Los Angeles Unified School District.

9. A letter dated September 1, 1987 from [REDACTED] of the PICO Union Amnesty Center in Los Angeles, California, indicating the Center was representing the applicant in the amnesty program legalization process.
10. The applicant's California driver's license issued September 18, 1987
11. The applicant's Nautilus Aerobics identification card starting on December 28, 1987 and expiring on December 28, 1988.
12. The applicant's receipt dated March 29, 1988 from a person in Los Angeles, California, for the translation of a birth certificate.

Review of the applicant's patient information and medical sheet (Item # 1) and his California identification card (Item # 2) issued May 25, 1985, reveals that the documentation appears to be altered. Therefore, these items shall be given little credence in this proceeding. Based on the applicant's California identification card issued May 25, 1985 and the subsequent evidence (Items #3 through # 11) the AAO accepts that he was present in the United States for a part of the requisite period.

On his Form I-687 filed November 23, 2005, the applicant states that his only absence from the United States after his first entry in September 1980 was taken when his parents traveled to Mexico from El Salvador. He went to visit them in Mexico in August 1987 and returned to the United States in the same month. However, in his declaration dated February 22, 2006, the applicant states that he has left the United States twice since 1980, the first time from March 1985 to April 1985 and the second time in August 1987. The difference between the applicant's statement on his Form I-687 and his declaration casts doubt on his claim that he resided continuously 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. 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, 591-92 (BIA 1988). These inconsistencies cast doubt not only on the evidence containing the conflicts, but on all of the applicant's evidence and all of his assertions.

The issue in this proceeding 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 applicant's asserted employment and residential histories on his I-687, are accompanied by inconsistent evidence.

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 absence 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. It is noted that even if the applicant's patient information and medical sheet (Item # 1) and his California identification card (Item # 2) were considered to be acceptable evidence, (which they are not), the applicant would have failed to document residence in this country from July 7, 1982 until May 25, 1984. Consequently, the director's decision to deny the application is affirmed.

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