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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: [REDACTED]  
MSC 05 039 10115

Office: LOS ANGELES

Date: **MAY 08 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:



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.

  
for 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, Los Angeles. 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.

On appeal, the applicant states that he has provided sufficient evidence of his physical presence in the United States. He resubmits an employment letter from [REDACTED] Personnel Manager of Universal Cast Iron Manufacturing Company in South Gate, California, stating that [REDACTED] worked for the firm from January 19, 1981 until June 17, 1982 and a rental application completed by [REDACTED] on July 31, 1981. The applicant indicates he resided in the United States under the alias of [REDACTED] when he first came to this country. The applicant further states that his testimony was further corroborated by numerous affidavits by no less than six disinterested persons who knew as a fact that he was physically present in the United States beginning in 1981.

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. A notarized statement from [REDACTED] who indicates that she knows the applicant resided in the United States since 1981.
2. Statements from [REDACTED] and [REDACTED] indicating they know the applicant has resided in the United States since before January 1, 1982.
3. Statements from [REDACTED] and [REDACTED] indicating they know the applicant has resided in the United States since 1982.
4. A notarized statement from [REDACTED] who indicates that he knows the applicant has resided in the United States since 1986.
5. Notarized statements from [REDACTED] and [REDACTED] indicating they know the applicant has resided in the United States since 1986.
6. A rental application dated July 31, 1981, completed by a person named [REDACTED] the applicants' asserted alias. The document indicates [REDACTED] present address as [REDACTED] and indicates that he had lived there for one year.
7. An employment letter from [REDACTED] of the personnel department of a firm named "Re:DB" in Los Angeles stating that [REDACTED] was employed by the company from March 18, 1980 until December 19, 1980.

8. An employment letter from [REDACTED] Personnel Manager of Universal Cast Iron Manufacturing Company in South Gate, California, stating that [REDACTED] worked for the firm from January 19, 1981 until June 17, 1982.
9. An employment letter from [REDACTED] stating that the applicant worked for the enterprise for approximately 2 ½ years between 1983 and 1985.
10. A letter from [REDACTED] r. from [REDACTED], who states the applicant was working for the firm under the name [REDACTED] when he met him in 1987.
11. A letter dated August 7, 1987 from [REDACTED] who states [REDACTED] has been employed by the firm since March of 1987.
12. The applicant's pay stub from Country Cupboard Restaurant in Sun City, Arizona, for the pay period ending March 17, 1987.
13. Western Union money order receipts showing the applicant sent funds to a person in Mexico on June 5, 1987, June 26, 1987 and July 24, 1987,

The statements have been reviewed (Items # 1 through # 5 above). These documents are not sufficiently probative to establish the applicant's continuous residence in the United States from January 1, 1982 through the requisite time period. Without corroborative evidence, declarations from acquaintances and family do not substantiate clear and convincing evidence of an applicant's residence in the United States.

On his Form I-687 signed on September 10, 1990 and on his current Form I-687, the applicant stated he resided at [REDACTED] in Los Angeles from September 1981 to January 1982. However, the rental application of [REDACTED] (Item # 6), the applicant's purported alias, specifies that he had been living at that address since about June 30, 1980. Additionally, the employment verification letters (Items # 7 through # 11) do not provide the applicant's address at the time of employment and identify the location of company records and state whether such records are accessible or in the alternative state the reason why such records are unavailable. 8 C.F.R. § 245a.2(d)(3)(i). Based on the applicant's pay stub and Western Union money order receipts (Items # 12 and # 13), AAO accepts that he was present in the United States for a part of the requisite period.

Except for the applicant's own statement the record contains no evidence to establish that he used the alias of [REDACTED] while he resided or worked in the United States.

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. Consequently, the director's decision to deny the application is affirmed.

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