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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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[Redacted]

FILE: [Redacted]
MSC 04 272 10098

Office: NEW YORK

Date: FEB 01 2010

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:

[Redacted]

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.

Perry Rhew
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, New York, New York, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed based upon its withdrawal.

The director determined that the applicant had not demonstrated that he had continuously resided in the United States in an unlawful status since before January 1, 1982 through the date that he attempted to file a Form I-687, Application for Status as a Temporary Resident, with the Immigration and Naturalization Service or the Service (now United States Citizenship and Immigration Services or USCIS) in the original legalization application period between May 5, 1987 to May 4, 1988. The director concluded that the applicant was not eligible to adjust to temporary resident status pursuant to the terms of the CSS/Newman Settlement Agreements and section 245A of the Immigration and Nationality Act (Act), and therefore, denied the application.

On appeal, counsel reiterated the applicant's claim of residence in this country for the required period and asserted that the applicant submitted sufficient evidence in support of such claim.

Subsequent to the filing of the appeal, the applicant submitted a letter to the AAO on December 23, 2009 requesting that his Form I-687 application and corresponding appeal be withdrawn. Although this request to withdraw the appeal shall be honored, the following facts must be noted.

An applicant for temporary residence 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 (Act), 8 U.S.C. § 1255a(a)(2) and 8 C.F.R. § 245a.2(b).

An alien applying for adjustment to temporary resident status must 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 and 8 C.F.R. § 245a.2(b)(1).

For purposes of establishing residence and presence in accordance with the regulation at 8 C.F.R. § 245a.2(b), "until the date of filing" shall mean until the date the alien attempted to file a completed Form I-687 application and fee or was caused not to timely file, consistent with the class member definitions set forth in the CSS/Newman Settlement Agreements. Paragraph 11, page 6 of the CSS Settlement Agreement and paragraph 11, page 10 of the Newman Settlement Agreement.

The record shows that the applicant submitted a Form I-687 application and a Form I-687 Supplement, CSS/Newman Class Membership Worksheet, to USCIS on June 28, 2004.

In support of his claim of continuous unlawful residence in the United States since prior to January 1, 1982, the applicant submitted documentation including original envelopes containing Pakistani postmarks dated November 7, 1981 and November 19, 1982, as well as photocopied envelopes containing Pakistani postmarks dated September 16, 1986 and June 11, 1987. These envelopes bear Pakistani postage stamps and were represented as having been mailed from Pakistan to the applicant at the addresses in this country he claimed as his residences during the requisite period. A review of the *2009 Scott Standard Postage Stamp Catalogue Volume 5* (Scott Publishing Company 2008), reveals the following:

- The original envelope postmarked November 7, 1981 bears two of the same stamp each with a value of twenty paisa. This stamp contains a stylized illustration of the Attock Fort in Pakistan. This stamp is listed at page 15 of Volume 5 of the *2009 Scott Standard Postage Stamp Catalogue* with catalogue number 616 A289. The catalogue lists this stamp's date of issue as 1984. The envelope also bears two of the same stamp each with a value of eighty paisa. This stamp contains a stylized illustration of the Ranikot Fort in Pakistan. This stamp is listed at page 15 of Volume 5 of the *2009 Scott Standard Postage Stamp Catalogue* with catalogue number 620 A289. The catalogue lists this stamp's date of issue as 1986. This envelope also bears a postage stamp with a value of four rupees that contains the picture of Mohammad Ali Jinnah framed by a multicolor oval. This stamp is listed at page 19 of Volume 5 of the *2009 Scott Standard Postage Stamp Catalogue* as catalogue number 716 A357. The catalogue lists this stamp's date of issue as August 14, 1989.
- The photocopied envelope postmarked June 11, 1987 bears a stamp with a value of ten rupees that contains a portrait of Mohammad Ali Jinnah on the left flanked by a multicolor pattern on the right. This stamp is listed at page 22 of Volume 5 of the *2009 Scott Standard Postage Stamp Catalogue* as catalogue number 814 A424. The catalogue lists this stamp's date of issue as September 11, 1994.

The fact that an original envelope postmarked November 7, 1981 and a photocopied envelope postmarked June 11, 1987 both bear postage stamps that were not issued until well after the date of these postmarks establishes that the applicant utilized these documents in a fraudulent manner and made material misrepresentations in an attempt to establish his residence within the United States for the requisite period. By engaging in such action, the applicant negated his own credibility as well as the credibility of his claim of continuous residence in this country for the period from prior to January 1, 1982.

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. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence

pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

By filing the instant application and submitting falsified documents, the applicant has sought to procure a benefit provided under the Act through fraud and willful misrepresentation of a material fact. Because the applicant has failed to provide independent and objective evidence to overcome, fully and persuasively, our finding that he submitted falsified documents, we affirm our finding of fraud. Consequently, the applicant is ineligible to adjust to temporary permanent residence under section 245A of the Act and the terms of the CSS/Newman Settlement Agreements on this basis.

ORDER: The appeal is dismissed based upon its withdrawal. This decision constitutes a final notice of eligibility.