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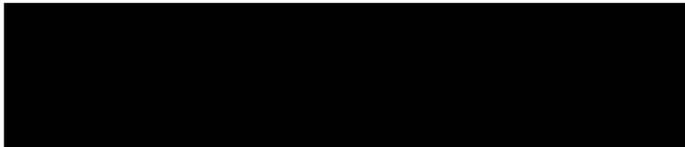
U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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FILE:

[Redacted]
MSC 05 084 19796

Office: LOS ANGELES

Date:

FEB 24 2010

IN RE:

Applicant:



APPLICATION: Application for Adjustment from Temporary to Permanent Resident Status under
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.

Evelyn McCormack

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The director, Los Angeles, terminated the applicant's temporary resident status. The decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant was granted lawful temporary residence on December 1, 2005. During the applicant's interview for permanent residence status, it appeared that the applicant may have been granted temporary resident status based on incomplete and/or inaccurate information. On March 27, 2008, the director issued a Notice of Intent to Terminate (NOIT) in accordance with the regulations at 8 C. F. R. § 245a.2(u)(2)(i) and granted the applicant 30 days in which to submit evidence in rebuttal to the proposed termination of her temporary resident status. Based on the evidence submitted, the applicant failed to overcome the reasons stated in the NOIT. Therefore, the director determined that the applicant was not eligible for status as a temporary resident pursuant to Section 245A of the Act and terminated the applicant's temporary resident application on May 22, 2008. An appeal has been filed by the applicant.

On appeal, the applicant states that the documentation provided proves that she resided in the United States since 1981.

Section 245A(b)(2) of the Act states in pertinent part that the Act provides for termination of temporary residence status granted to an alien if it appears to the Attorney General that the alien was in fact not eligible for such status, or the alien commits an act that makes the alien inadmissible to the United States as an immigrant, or the alien is convicted of any felony or three or more misdemeanors committed in the United States.

The applicant's class determination form and the USCIS adjudication officer's notes revealed that the applicant claimed to have first entered the United States without inspection in February, 1981.

The applicant submitted affidavits from [REDACTED] and declarations from [REDACTED] and [REDACTED] to establish her initial entry and residence in the United States during the requisite period. The witnesses generally attest to being friends, neighbors, communicating and socializing with the applicant and the applicant's good moral character but provide no other information about the applicant. The affidavits and declarations all contain statements that the affiants either have personally known or been acquainted with the applicant or know that the applicant resided in the United States since the 1980s. [REDACTED] claims that she brought the applicant to the United States in February, 1981, but the applicant never claimed during her interviews to have entered the United States with another person. [REDACTED] testified that the applicant resided with him from 1981 to January, 1984. The record does not contain proof that [REDACTED] was in the United States from 1981-1985. [REDACTED] stated that he met the applicant in 1981 with her brother, [REDACTED], and that she resided in the United States since 1981 but testified as an interpreter that he came to the United States in 1985-1986. [REDACTED] testified that she met the applicant at work in July, 1984, but the applicant stated that she didn't work with [REDACTED] until 1994.

The inconsistencies are material to the applicant's claim in that they have a direct bearing on the applicant's continuous residence in the United States during the requisite period. No evidence of record resolves these inconsistencies. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. 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).

Upon review, the affidavits and declarations submitted do not contain sufficiently detailed descriptions to establish the reliability of their assertions. As stated previously, the evidence must be evaluated not by the quantity of evidence alone but by its quality. The absence of sufficiently detailed declarations to corroborate the applicant's claim of continuous residence for the entire requisite period seriously detracts from the credibility of her claim. For instance, none of the declarants supplies any details about the applicant's life, such as, knowledge about her education, hobbies, employment and shared activities with the applicant.

The witnesses do not 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 declarations. 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. Given the applicant's reliance upon documents with minimal probative value, it is concluded that the applicant has failed to establish continuous residence in an unlawful status in the United States from prior to January 1, 1982 through the requisite period. Therefore, the declarations have little probative value.

The letter signed by [REDACTED] states that the applicant was employed at the Valley Wholesale Nursery in the spring of 1982 and worked as a nursery person taking care of the plants and trees through 1989. [REDACTED] is currently the manager of [REDACTED]. [REDACTED] states in a letter that the applicant worked in his house part-time as a housemaid from May, 1981, to August, 1989. [REDACTED] stated in her declaration that the applicant worked as a salesperson in 1984. There is no indication on the applicant's initial and current Form I-687 that she worked as a salesperson or for a nursery from 1981-1987. The inconsistencies in the evidence lessen the value of the employment information. Further, the regulation at 8 C.F.R. § 245a.2(d)(3)(i) states that letters from employers attesting to an applicant's employment must: provide the applicant's address at the time of employment; identify the exact period of employment; show periods of layoff; state the applicant's duties; declare whether the information was taken from company records; and, identify the location of such company records and state whether such records are accessible or in the alternative state the reason why such records are unavailable. As the letters do not meet most of the requirements stipulated in the aforementioned regulation, they will be given nominal weight.

The remaining evidence consists of six receipts and letters from Van Nuys Community Adult School and Southern California Gas Company. The letter from Southern California Gas Company indicates

that the service was not in the applicant's name but in the name of [REDACTED] at the following address: [REDACTED]. The applicant never claimed on either her initial or current Form I-687 application to have resided at this address. The letter from Van Nuys Community Adult School states that the residential addresses from 1981 were extracted from the official school records of the Los Angeles Unified School District but the record does not contain any school records and no evidence that the applicant attended school. The USCIS adjudication officer's notes reveal that the applicant claimed to have never attended school in the United States. The inconsistencies in the record with regard to the applicant's residence in the United States have not been explained or resolved with independent, objective evidence. Further, the dates on the original receipts appear to be altered. The original receipt from [REDACTED] shows that the initial name was erased and the applicant's name was added. It also shows that the bill was paid by check and the record does not contain any evidence of the applicant having a checking account. The original receipts from [REDACTED] and [REDACTED] show that the dates were altered. Therefore, the receipts have no probative value. The applicant also submitted copies of two photographs but the photos are not dated and the persons in the photos have not been identified.

An applicant applying for adjustment of status under this part has the burden of proving by a preponderance of evidence that he or she is eligible for adjustment of status under section 245a of the Act. 8 C.F.R. § 245a.2(d)(5). In the instant case, the applicant has failed to submit sufficient evidence to overcome the director's denial. The insufficiency of the evidence and the noted inconsistencies call into question the credibility of the applicant's claim to have entered the United States illegally in February, 1981 and her continuous unlawful residence in the United States throughout the requisite period. The evidence submitted is insufficient to establish the applicant's 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 requisite period.

Therefore, based upon the foregoing, the applicant is ineligible for adjustment of status from temporary to permanent resident because she 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's previously granted temporary residence status is terminated.

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