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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



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



L<sub>1</sub>

DATE: **JUL 29 2011** Office: NEW YORK

FILE:



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.

*Elizabeth McCormack*

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. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record indicates that the applicant filed a Form I-687 Application for Temporary Resident Status on September 27, 2005. On August 25, 2006, the director denied the application noting that the applicant failed to appear for the scheduled interview and that not being able to find a competent interpreter was not an excuse warranting a rescheduling of the interview. Thus, the director indicated that the application was abandoned.

On September 29, 2010, U.S. Citizenship and Immigration Services (USCIS) informed the applicant that, pursuant to a recent court order, applications for temporary resident status may not be denied based on abandonment. The applicant was informed that he was entitled to file an appeal with the AAO which must be adjudicated on the merits.

On appeal, the applicant stated that he submitted sufficient evidence to meet the statutory requirements.

The AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). Following *de novo* review, the AAO found that that the director's basis for denial of the Form I-687 was in error. However, the AAO identified alternative grounds for denial of the application. Specifically, the AAO noted that the applicant failed to submit sufficient evidence in support of his application.

In an attempt to establish continuous unlawful residence since before January 1, 1982 through the end of the relevant period, the applicant provided three employment letters. The record contains a letter on [REDACTED] letterhead signed [REDACTED] sales manager and dated February 20, 1984. Mr. [REDACTED] states that the applicant worked for the company as a sales person from February 1982 to February 1984. Mr. [REDACTED] states that the applicant was paid \$150 and a commission but Mr. [REDACTED] does not provide an hourly rate. Mr. [REDACTED] also states that according to official records the applicant's address is [REDACTED]. The record also contains an employment letter on [REDACTED] letterhead signed by [REDACTED], owner and dated December 30, 1985. Mr. [REDACTED] states that the applicant worked as a stock person from March 1984 to December 1985. Mr. [REDACTED] also states that the applicant lived at [REDACTED] during the applicant's employment. The record contains an employment letter on [REDACTED] letterhead signed by [REDACTED], stock manager and dated September 20, 1988. Mr. [REDACTED] states that the applicant worked as a full-time stock person from February 1986 to September 1988 and earned an average of \$250 per week in cash.

The letters fail to meet certain regulatory standards set forth at 8 C.F.R. § 245a.2(d)(3)(i), which provides that letters from employers must include the applicant's address at the time of employment; exact period of employment; whether the information was taken from official company records and

where records are located and whether USCIS may have access to the records; if records are unavailable, an affidavit form-letter stating that the employment records are unavailable may be accepted which shall be signed, attested to by the employer under penalty of perjury and shall state the employer's willingness to come forward and give testimony if requested. The letters from Mr. [REDACTED], Mr. [REDACTED], and Mr. [REDACTED] do not include much of the required information. These letters will be accorded minimal weight as evidence of the applicant's residence in the United States for the duration of the requisite period.

The record also contains a letter from United American Muslim Association of New York dated September 15, 1988 and signed by [REDACTED]. Mr. [REDACTED] states that the applicant has been a member of the association since December 1981. Mr. [REDACTED] does not provide the origin of the applicant's membership information and the letter does not include Mr. [REDACTED] position at the United American Muslim Association of New York.

The regulation at 8 C.F.R. § 245a.2(d)(3)(v) provides requirements for attestations made on behalf of an applicant by churches, unions, or other organizations. Attestations must: (1) Identify applicant by name; (2) be signed by an official (whose title is shown); (3) show inclusive dates of membership; (4) state the address where applicant resided during membership period; (5) include the seal of the organization impressed on the letter or the letterhead of the organization, if the organization has letterhead stationery; (6) establish how the author knows the applicant; and (7) establish the origin of the information being attested to. The letter from Mr. [REDACTED] does not include much of the required information. This letter will be accorded minimal weight as evidence of the applicant's residence in the United States for the duration of the requisite period.

The record contains copies of a New York Telephone letter dated December 28, 1981, a letter from [REDACTED] dated August 14, 1982, and a bank receipt dated July 12, 1985. This is some evidence that the applicant was in the United States in December 1981, August 1982, and July 1985.

The record also contains a two-year lease signed by the applicant on December 15, 1984 for an apartment at [REDACTED]. The lease began on December 15, 1984 and ended on December 14, 1986. This is some evidence that the applicant was in the United States during the term of the lease. However, as noted below, other evidence in the record of proceeding is inconsistent with the lease submitted.

The AAO notes that the record contains other forms signed by the applicant under penalty of perjury. On one application form, the applicant stated that he arrived in the United States on June 18, 1991. In Part D, Question #24 of the same form, the applicant stated that he has never traveled to the United States before. The record also contains a Form G-325A, Biographic Information signed by the applicant on June 23, 1992. In the Form G-325A, the applicant stated that he lived in Pakistan from November 1955 to June 1991. The information in these forms is inconsistent with the information that the applicant has submitted in support of his Form I-687 application.

The applicant's statements indicate that he first arrived in the United States in 1991 and that he is therefore statutorily ineligible for temporary resident status.