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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**

**PUBLIC COPY**

[REDACTED]

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DATE: MAR 19 2012 Office: HOUSTON

FILE: [REDACTED]

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 approved on September 9, 2005. The applicant's temporary resident status was terminated by the Director, Houston on May 25, 2011. The decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

The applicant submitted a Form I-687, Application for Status as a Temporary Resident under Section 245A of the Immigration and Nationality Act (Act), and a Form I-687 Supplement, CSS/Newman Class Membership Worksheet. The application was approved on September 9, 2005. The director terminated the applicant's temporary resident status on May 25, 2011, finding that the applicant did not submit sufficient evidence to establish that he entered the United States before January 1, 1982 and lived in the United States during the requisite period.

On appeal, the applicant asserts that he has established that he entered the United States before January 1, 1982 and his unlawful residence for the requisite time period.

The status of an alien lawfully admitted for temporary residence under section 245A(a)(1) of the Act may be terminated at any time if it is determined that the alien was ineligible for temporary residence under section 245A of the Act. 8 C.F.R. § 245a.2(u)(1)(i).

The AAO conducts appellate review on a *de novo* basis. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).

The issue in this proceeding is whether the applicant established that he (1) entered the United States before January 1, 1982 and (2) has continuously resided in the United States in an unlawful status throughout the requisite period.

The record includes affidavits and contemporaneous evidence in support of the applicant's claim of residence in the United States during the requisite period.

On November 29, 2010, the director issued a notice of intent to terminate (NOIT). In the NOIT, the director concluded that the affidavits in the record of proceeding lacked direct personal knowledge of the events and circumstances of the applicant's residency. The director also found that the affidavits were not credible or verifiable. In the NOIT, the director stated that the applicant failed to present sufficient evidence to meet the "preponderance of the evidence" standard for temporary residence. The AAO notes that the affidavits in the record contain contact information for the affiants.

On appeal, counsel states that the inconsistencies in the record are minimal. Counsel also asserts that previous counsel misunderstood the applicant when filling out the application. In his statement on appeal, the applicant addresses the director's concerns as listed in the director's NOIT.

The contemporaneous documents submitted by the applicant appear to be credible. The declarations and other documentation submitted by the applicant appear to be credible and amenable to verification in that each include contact telephone numbers and/or contact addresses. Upon review of the totality of the record, although the AAO has some doubt as to the truth, the record contains sufficient relevant probative, and credible evidence that leads the AAO to believe that the claim is "probably true" or "more likely than not." Thus the applicant has satisfied the standard of proof. See *U.S. v. Cardozo-Fonseca*, 480 U.S. 421 (1987) (defining "more likely than not" as a greater than 50 percent probability of something occurring).

The information on the supporting documents in the record is consistent with the applicant's testimony and with the claims made on his I-687 Application; there are no significant inconsistencies. As stated in *Matter of E-M*, 20 I&N Dec. at 80, when something is to be established by a preponderance of the evidence, the proof submitted by the applicant has to establish only that the asserted claim is probably true. That decision also states that, under the preponderance of evidence standard, an application may be granted even though some doubt remains regarding the evidence. *Id.* at 79. The documents that have been furnished in this case may be accorded substantial evidentiary weight and are sufficient to meet the applicant's burden of proof of residence in the United States for the requisite period.

The applicant has established by a preponderance of the evidence that he entered the United States before January 1, 1982 and maintained continuous, unlawful residence for the duration of the requisite period.

The appeal will be sustained. The director shall reopen the applicant's Form I-698 and readjudicate it.

**ORDER:** The appeal is sustained.