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U.S. Citizenship
and Immigration
Services



FILE: [Redacted]

Office: NEBRASKA SERVICE CENTER

Date:

IN RE: Applicant: [Redacted]

AUG 13 2004

APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT: SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann
Robert P. Wiemann, Director
Administrative Appeals Office

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DISCUSSION: The application was denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of El Salvador who is seeking Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The director denied the application because the applicant failed to establish he had: 1) entered the United States prior to February 13, 2001; 2) continuously resided in the United States since February 13, 2001; and 3) been continuously physically present in the United States since March 9, 2001.

On appeal, the applicant submits additional documentation in support of his claim to TPS eligibility.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant who is a national of a foreign state is eligible for temporary protected status only if such alien establishes that he or she:

- (a) is a national of a state designated under section 244(b) of the Act;
- (b) has been continuously physically present in the United States since the effective date of the most recent designation of that foreign state;
- (c) has continuously resided in the United States since such date as the Attorney General may designate;
- (d) is admissible as an immigrant under section 244.3;
- (e) is not ineligible under 8 C.F.R. § 244.4; and
- (f)
 - (1) registers for TPS during the initial registration period, or
 - (2) registers for TPS during any subsequent extension of such designation, if the applicant meets the above listed requirements and:
 - (i) the applicant is a nonimmigrant or has been granted voluntary departure status or any relief from removal;
 - (ii) the applicant has an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal which is pending or subject to further review or appeal;
 - (iii) the applicant is a parolee or has a pending request for reparole; or

(iv) the applicant is a spouse or child of an alien currently eligible to be a TPS registrant.

The phrase continuously physically present, as defined in 8 C.F.R. § 244.1, means actual physical presence in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous physical presence in the United States by virtue of brief, casual, and innocent absences as defined within this section.

The phrase continuously resided, as defined in 8 C.F.R. § 244.1, means residing in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous residence in the United States by reason of a brief, casual and innocent absence as defined within this section or due merely to a brief temporary trip abroad required by emergency or extenuating circumstances outside the control of the alien.

The phrase brief, casual, and innocent absence, as defined in 8 C.F.R. § 244.1, means a departure from the United States that satisfies the following criteria:

- (1) Each such absence was of short duration and reasonably calculated to accomplish the purpose(s) for the absence;
- (2) The absence was not the result of an order of deportation, an order of voluntary departure, or an administrative grant of voluntary departure without the institution of deportation proceedings; and
- (3) The purposes for the absence from the United States or actions while outside of the United States were not contrary to law.

Persons applying for TPS offered to El Salvadorans must demonstrate continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001.

The burden of proof is upon the applicant to establish that he or she meets the above requirements. Applicants must submit all documentation as required in the instructions or requested by Citizenship and Immigration Services (CIS). 8 C.F.R. § 244.9(a). The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. To meet his or her burden of proof the applicant must provide supporting documentary evidence of eligibility apart from his or her own statements. 8 C.F.R. § 244.9(b).

The applicant filed his Form I-821, Application for Temporary Protected Status, on March 29, 2002. On June 13, 2002, the applicant was requested to submit evidence establishing his continuous residence since February 13, 2001, and his physical presence since March 9, 2001, as well as his date of entry into the United States. The applicant was also requested to submit a photo identity document. The applicant, in response, provided the following documentation:

1. A photocopy of the applicant's El Salvadoran birth certificate, with English translation, issued on June 30, 2000 in El Salvador;
2. A photocopy of a receipt issued to the applicant from the Association for Los Angeles Deputy Sheriffs, Inc., dated February 10, 2000. The applicant's address is noted as [REDACTED] California;
3. A photocopy of a receipt issued to the applicant from [REDACTED] Los Angeles, California, dated September 18, 2000. The applicant's address is noted as [REDACTED] California;
4. A photocopy of an un-translated invoice issued to the applicant from Transportes Salvadoreños located in Los Angeles, California, dated November 17, 2000. The applicant's address is noted as [REDACTED];
5. A photocopy of a postcard mailer addressed to the applicant from Gateway, dated May 17, 2001. The applicant's address is noted as [REDACTED];
6. A photocopy of a payment bill addressed to the applicant from [REDACTED] dated May 22, 2001. The applicant's address is noted as [REDACTED];
7. A photocopy of a postcard mailer addressed to the applicant from [REDACTED] Huntington Park, California, dated May 22, 2001. The applicant's address is noted as [REDACTED] Iowa; and,
8. A photocopy of an un-translated invoice from [REDACTED] Miami, Florida, dated July 22, 2001. The applicant's address is noted as [REDACTED].

The director determined that the applicant had failed to submit sufficient evidence to establish his eligibility for TPS and denied the application on August 10, 2003. On appeal, the applicant reasserts his claim to TPS eligibility and submits the following additional documentation:

9. Photocopies of un-numbered receipts showing the applicant's monthly payments of \$100 to a person (name illegible) in October through December 1999, June and July 2000, and July through September 2001;
10. A photocopy of a receipt issued to the applicant from [REDACTED] Los Angeles, California, dated January 23, 2001;
11. Photocopies of payment stubs issued to the applicant from [REDACTED] Mendota, California. The payments stubs are dated June through August 1999, February and October 2000, and January through April 2001. The applicant's social security number is noted as [REDACTED];
12. A photocopy of a CIS Notice of Action (Form I-179C) issued to the applicant on April 1, 2002. The applicant's address is noted as [REDACTED];
13. A photocopy of a receipt issued to the applicant on August 22, 2002;
14. A photocopy of a change of address confirmation issued to the applicant from the U.S. Postal Service, Memphis, Tennessee, dated September 2, 2002. The applicant's old address is noted as [REDACTED] the new address is noted as [REDACTED];
15. A photocopy of a CIS Notice of Action (Form I-797C) issued to the applicant on November 19, 2002. The applicant's address is noted as [REDACTED];
16. A photocopy of an unsigned transcript issued to the applicant from [REDACTED] address not listed) dated November 27, 2002. The transcript indicates that the applicant attended grade 9; and,

17. Photocopies of two employment pay stubs, dated May 25, 2003 and August 3, 2003. The names of the employer and employee are not listed, however, the social security number of the employee is listed as [REDACTED]

While the applicant has provided a variety of documentation from different sources, there are several discrepancies, inconsistencies, and inadequacies contained in the documentation submitted.

When applying for TPS, the applicant indicated that he did not have a social security number. However, No. 11 (above) shows the applicant's social security number as [REDACTED] and No. 17 notes the unidentified employee's social security number as [REDACTED]

The applicant claims to have lived in the United States since May 18, 1999, when he entered without inspection at the age of sixteen. No. 16, above, indicates that the applicant attended 9th grade at the Murray Community School. The document was issued in November 2002, but does not indicate the address of the school or the applicant's period of enrollment, and is not signed by a school official.

The only items submitted by the applicant containing pre-February 2001 dates are No.'s 1, 2, 3, 4, 9, 10, and 11. No. 1 was issued in El Salvador while the applicant claims to have been physically present in the United States. No.'s 2 and 4 indicate the applicant lived at the same address in Los Angeles, California, in February and November 2000; however No. 3 indicates that between those two dates, in September 2000, he lived at a different address in Pamona, California.

It appears that the applicant resided in Osceola, Iowa, from approximately May 2001 (see No.'s 5, 6, 7, 12, and 14) until approximately September 2002, when he moved to Murray, Iowa (see No.'s 14, 15 and 16). However, No. 8 indicates an address in Los Angeles during this same time period, in July 2001.

No. 9 does not show the applicant's address, and the name of the issuer and reason for issuance of the receipts is illegible. Furthermore, No. 11 has little evidentiary weight or probative value as it does not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(i). Specifically, the affiant does not provide the address where the applicant resided during the period of his employment.

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 lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). The applicant has failed to submit any objective evidence to explain or justify the inconsistencies contained in the documents submitted. Therefore, the reliability of the remaining evidence offered by the applicant is suspect.

It must be concluded that the applicant has failed to overcome the director's concerns. The applicant has not submitted sufficient credible evidence to establish his qualifying continuous residence in the United States since February 13, 2001, or his continuous physical presence in the United States since March 9, 2001. He has,

therefore, failed to establish that he has met the criteria described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

An alien applying for temporary protected status has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of section 244 of the Act. The applicant has failed to meet this burden.

ORDER: The appeal is dismissed.