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U.S. Department of Homeland Security  
20 Mass, Rm. A3042, 425 I Street, N.W.  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

*M*

[Redacted]

FILE:

[Redacted]

Office: VERMONT SERVICE CENTER

Date: JUL 12 2004

IN RE:

Applicant:

[Redacted]

APPLICATION:

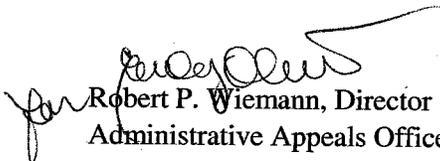
Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office 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 determined that the applicant failed to submit evidence to establish continuous residence in the United States since February 13, 2001, and physical presence in the United States since March 9, 2001. The director, therefore, denied the application.

On appeal, the applicant reiterates his claim of residence in the United States since January 2000. The applicant submits additional evidence.

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 as designated by the Attorney General is eligible for temporary protected status only if such alien establishes that he or she:

- (a) Is a national, as defined in section 101(a)(21) of the Act, of a foreign 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 except as provided 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 announced by public notice in the *Federal Register*, or
  - (2) During any subsequent extension of such designation if at the time of the initial registration period:
    - (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.
- (g) Has filed an application for late registration with the appropriate Service director within a 60-day period immediately following the expiration or termination of condition described in paragraph (f)(2) of this section.

The term *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 term *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.

Persons applying for TPS offered to El Salvadorans must demonstrate entry on or prior to February 13, 2001, that they have continuously resided in the United States since February 13, 2001, and that they have been continuously physically present in the United States since March 9, 2001. On July 9, 2002, the Attorney General announced an extension of the TPS designation until September 9, 2003. A subsequent extension of the TPS designation has been granted by the Secretary of the Department of Homeland Security, with validity until March 9, 2005, upon the applicant's re-registration during the requisite time period.

The burden of proof is upon the applicant to establish that he or she meets the above requirements. Applicants shall 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 record reflects that the applicant submitted his application for TPS on August 6, 2001. The applicant stated on the Form I-821, Application for Temporary Protected Status, that he had not been known by any other name. In support of his application, the applicant submitted the following evidence:

- 1.) an envelope, postmarked February 5, 2000, which was addressed to him at [REDACTED] and,
- 2.) an August 2, 2001 statement from a [REDACTED] and an English translation, which indicate that the affiant has known the applicant since September 2000, when they were neighbors at 6017 Eastern Avenue, #6, Hyattsville, Maryland.

On February 11, 2003, the applicant was requested to submit evidence establishing that he had continuously resided in the United States since February 13, 2001, and that he had been physically present in the United States from March 9, 2001, to the date of filing the application. In response, the applicant submitted the following evidence:

- 3.) six receipts for rent paid by the applicant for a room at [REDACTED] Maryland, during the period from January 1, 2001 through June 1, 2001;
- 4.) twelve pay statements, issued by [REDACTED], to an [REDACTED], during the pay periods from May 7, 2001 through December 16, 2001;
- 5.) three pay statements, issued by [REDACTED] to the applicant during the period from January 7, 2002 through January 27, 2002; and,
- 6.) a July 9, 2001, Western Union money transfer receipt, in the name [REDACTED]

The director concluded that the evidence submitted by the applicant failed to establish his qualifying continuous residence and physical presence in the United States during the requisite periods. The director denied the application on April 22, 2003.

On appeal, the applicant reiterates his claim to eligibility for TPS. He submits the following evidence:

- 7.) copies of four of the same pay statements, listed in No. 4, above, on which he indicated that his name had been spelled incorrectly; and,
- 8.) copies of two pay statements, reflecting salary paid to the applicant, under Social Security number 218-61-9879, on June 28, 2002 and January 31, 2003.

On appeal, the applicant states that his name was spelled incorrectly on the pay statements he submitted with his TPS application. He states that he submitted the incorrect pay statements because he did not have any other evidence to provide, and he thought that the Immigration and Naturalization Service (now CIS) could understand the spelling mistakes. However, the applicant did not claim at the time he submitted his TPS application that his name had been spelled incorrectly on the pay statements. He has not provided an employer verification letter from [REDACTED] or any evidence that he had made an effort to contact his employer to correct the alleged spelling errors on the pay statements. In addition, the pay statements do not show a Social Security number, even though Social Security taxes were withheld from the employee's salary. Further, the pay statements appear to have been altered as the original employee name seems to have been covered-over and the applicant's name has been inserted in its place. The director noted the alterations and, therefore, they have no evidentiary value.

The applicant furnished a copy of an envelope, outlined in Item No. 1, above, which indicates that he was residing at [REDACTED]. While the applicant has furnished rent receipts indicating that he resided at [REDACTED] from January 1, 2001 through June 1, 2001, he also submitted an affidavit from [REDACTED] who stated in her affidavit that she has known the applicant since September 2000, when the applicant was her neighbor at [REDACTED]. The applicant has not explained this discrepancy.

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 (BIA 1988). The applicant has failed to submit any objective evidence to explain or justify the discrepancies and the inconsistencies in the evidence he submitted in support of his application for TPS. Therefore, the reliability of the remaining evidence offered by the applicant is suspect, and it must be concluded that the applicant has failed to satisfy the continuous residence and continuous physical presence requirements 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.

The burden of proof is upon the applicant to establish 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.