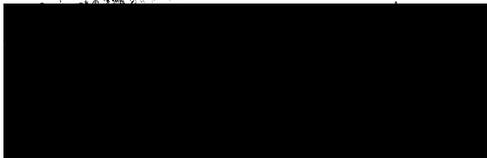




U.S. Citizenship
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Services

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MM

FILE: [REDACTED]
[LIN 03 011 50042]

Office: NEBRASKA SERVICE CENTER

Date: JUN 7 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
Robert P. Wiemann, Director
Administrative Appeals Office

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

The applicant claims to be 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 TPS application because the applicant failed to establish his nationality, and that he had continuously resided in the United States since February 13, 2001.

On appeal, the applicant states that he is eligible for TPS.

It is noted that this application, which was filed on September 9, 2002, appears to be the applicant's attempt to register. Previous applications filed by the applicant include: LIN 02 111 52867 filed on February 14, 2002, and denied on September 17, 2002, and LIN 01 162 52257 filed on April 28, 2001, and denied for abandonment on November 14, 2001.

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 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, 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.

- (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 conditions described in paragraph (f)(2) of this section.

The first issue raised by the director to be addressed in this proceeding is whether the applicant has established his nationality.

An applicant is eligible for temporary protected status only if such alien establishes that he or she is a national of a foreign state designated under section 244(b) of the Act. 8 C.F.R. § 244.2(a).

8 C.F.R. § 244.9(a)(1) provides, in part:

Each application must be accompanied by evidence of the applicant's identity and nationality. If these documents are unavailable, the applicant shall file an affidavit showing proof of unsuccessful efforts to obtain such identity documents, explaining why the consular process is unavailable, and affirming that he or she is a national of the designated foreign state. A personal interview before an immigration officer shall be required for each applicant who fails to provide documentary proof of identity or nationality. During this interview, the applicant may present any secondary evidence that he or she feels would be helpful in showing nationality. Acceptable evidence in descending order may consist of:

(i) Passport;

(ii) Birth certificate accompanied by photo identification; and/or

(iii) Any national identity document from the alien's country of origin bearing photo and/or fingerprint.

The applicant claims on his application that he is a citizen of El Salvador. The applicant did not address this issue on appeal. The applicant has provided no documentary evidence such as a passport, a birth certificate or any national identity document from his country of origin containing his photograph and fingerprint. The applicant has not established his nationality; therefore, the director's decision to deny the application for temporary protected status for this reason will be affirmed.

The remaining issue raised by the director to be addressed in this proceeding is whether the applicant has continuously resided in the United States since February 13, 2001.

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.

El Salvadorians applying for TPS must demonstrate entry on or prior to February 13, 2001, continuous residence in the United States since February 13, 2001; and 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 shall submit all documentation as required in the instructions or requested by Citizenship and Immigration Services. 8 C.F.R. § 244.9(a). The sufficiency of all evidence, however, 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).

In support of his application, the applicant provided a photocopy of a social security card, a previously issued Employment Authorization Card, handwritten "rent" receipts for May 1 and June 1 of 2002, and an electric bill for the billing period between June 4, 2002 and July 5, 2002.

On appeal, the applicant states that he has been living in the United States since 1995. The applicant, to establish his claim, submits copies of handwritten "rent" receipts for November 20, 2000, December 1, 2000, January 1, 2001, February 4, 2001, March 3, 2001, and April 2, 2001; electric bills for the billing period covering July 5, 2002 through August 5, 2002, August 5, 2002 through September 9, 2002 and October 3, 2002 through November 5, 2002; and, the previously submitted Employment Authorization Card. It is noted that the majority of the "rent" receipts presented on appeal were dated prior to the filing of the Temporary Protected Status application, nevertheless, the applicant was unable to produce these receipts at the time of filing the application. The applicant has offered no explanation as to why these receipts were available to be presented on appeal, but not at the time of the filing of the application on September 9, 2002. 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, 591-92 (BIA 1988) 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 visa petition. *Id.*, 582, 591.

The documentation contained in the record is not sufficient in establishing that the applicant has been continuously residing in the United States since February 13, 2001. Consequently, the director's decision to deny the application for temporary protected status for this reason will also 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.