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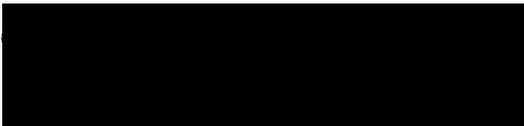
U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. A3042  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

PUBLIC COPY

WMI



FILE:



Office: VERMONT SERVICE CENTER

Date: SEP 18 2012

IN RE:

Applicant:



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.

A handwritten signature in black ink, appearing to read "R. Wiemann".

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 (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 determined the applicant failed to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods.

On appeal, the applicant submits a brief statement and additional documentation.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant is eligible for TPS 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 § 244.3;
- (e) Is not ineligible under § 244.4; and
- (f)
  - (1) Registers for Temporary Protected Status 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 conditions described in paragraph (f)(2) of this section.

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 initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed his initial Form I-821, Application for Temporary Protected Status, with the Immigration and Naturalization Service (INS), now Citizenship and Immigration Services (CIS), on August 22, 2002.

The burden of proof is upon the applicant to establish that he 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 burden of proof the applicant must provide supporting documentary evidence of eligibility apart from his own statements. 8 C.F.R. § 244.9(b).

On his initial Form I-821, the applicant indicated that he had last entered the United States without inspection on January 17, 2000. In support of his initial application, the applicant submitted a photocopy of his personal identification card (*cedula*), issued in El Salvador on June 1, 2001.

The documentation initially submitted by the applicant in support of his application was insufficient to establish his eligibility for TPS. Therefore, on June 25, 2003, the director requested the applicant to submit additional evidence to show that he had continuously resided in the United States since February 13, 2001, and had been physically present since March 9, 2001. The applicant was also requested to explain how he could have been issued a *cedula* in El Salvador on a date, June 12, 2001, that he claimed to have been physically present in the United States. In response, the applicant submitted two personal affidavits from acquaintances attesting to his residence and physical presence, and several items of correspondence, all of which were dated after August 2002. He did not explain the date of issuance on his *cedula*.

The director determined that the documentation provided by the applicant was not sufficient to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. The director denied the application on August 27, 2003.

On appeal, the applicant submits photocopies of the following documentation:

1. An Internal Revenue Service (IRS) 2002 Form W-2, Wage and Tax Statement, issued to the applicant by [REDACTED] Virginia;
2. A reissued IRS 2002 Form W-2 issued to the applicant by [REDACTED] Tacoma, Washington;
3. An affidavit, dated July 19, 2003, from [REDACTED] Virginia, stating that the applicant had been employed there since December 2002;
4. A generic letter, dated January 23, 2003, issued to all company employees from [REDACTED] Human Resources [REDACTED] Landover, regarding a new Bank of America at Work Direct Deposit Offer;
5. A letter, dated September 24, 2002, from LHR, Inc, Hamburg, New York, addressed to [REDACTED] Washington, D.C., regarding a CitiBank account;
6. An INS mailing receipt indicating that a Form I-797D, Employment Authorization Document (EAD), was sent to the applicant on September 5, 2002;
7. A letter from the Social Security Administration, Washington, D.C., indicating that the applicant applied for a social security card on September 23, 2002; and,
8. A letter to the applicant, dated April 18, 2003, from [REDACTED] Smithfield, Virginia, regarding COBRA health insurance.

Based on a review of the record, the applicant has failed to overcome the director's decision. The applicant claims to have lived in the United States since January 2000. It is reasonable to expect that he would have some type of contemporaneous evidence to support this claim; however, no such evidence has been provided.

All of the items, Nos. 1 through 8, above, were issued after the required dates to establish continuous residence and continuous physical presence. The two affidavits from acquaintances submitted by the applicant are not, by themselves, persuasive evidence of his continuous residence and continuous physical presence. Furthermore, the applicant has not explained the discrepancy in the date of issuance of his cedula.

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).

It is concluded that the documentation submitted by the applicant is not sufficient to establish that he satisfies 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.

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.