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U.S. Citizenship  
and Immigration  
Services

MI



FILE: [REDACTED]  
[LIN 03 268 50034]

Office: Nebraska Service Center

Date: **AUG 15 2005**

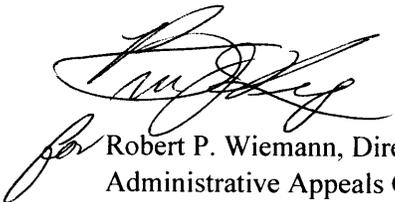
IN RE: Applicant: [REDACTED]

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.

  
for 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 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 was eligible for late registration. The director also denied the application because the applicant failed to establish his date of entry into the United States and his continuous residence and continuous physical presence in the United States during the requisite time periods. In addition, the director denied the application because the applicant failed to provide a copy of his birth certificate.

As stated in 8 C.F.R. § 244.1, "register" means "to properly file, with the director, a completed application, with proper fee, for Temporary Protected Status during the registration period designated under section 244(b) of the Act."

The record reveals that the applicant filed his initial application [LIN 01 276 52270] with the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on September 25, 2001. That application was denied on June 5, 2002. The applicant did not file an appeal during the prescribed time period.

The applicant filed a subsequent Form I-821, Application for Temporary Protected Status, [LIN 02 238 51043] on July 8, 2002, during the initial registration period. The director denied this second application on December 30, 2002, because the applicant failed to establish his continuous residence and continuous physical presence in the United States during the requisite time periods. The director also denied the application because the applicant failed to establish his use of two different names.

On January 15, 2003, the applicant filed an appeal to the director's decision to deny the application. On June 2, 2003, the director of the AAO dismissed the appeal because the applicant failed to establish his continuous residence and continuous physical presence in the United States during the requisite time periods.

The applicant filed a third Form I-821, Application for Temporary Protected Status, on September 12, 2003. The director denied this third application [LIN 03 268 50034] on February 24, 2004, because it was filed outside of the initial registration period and because the applicant had failed to establish his eligibility for filing under the provisions of late registration. The director also found that the applicant had failed to establish his date of entry into the United States on or before February 13, 2001; his continuous residence in the United States since February 13, 2001; and his continuous physical presence in the United States since March 9, 2001. The director also denied the application because the applicant failed to submit a copy of his birth certificate.

The applicant's initial application was filed on September 25, 2001, and was denied on June 5, 2002. The applicant's second Form I-821 was properly filed on July 8, 2002. That application was denied by the director on December 30, 2002, and the appeal on this application was dismissed on June 2, 2003. Any Form I-821 application subsequently submitted by the same applicant after an application is filed and a decision rendered, must be considered as either a request for annual registration or as a new filing for TPS benefits.

If the applicant is filing an application as a re-registration, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must register annually. In addition, the applicant must continue to maintain the conditions of eligibility. 8 C.F.R. § 244.17.

The applicant filed the instant Form I-821 on September 12, 2003. Since the initial application was denied on June 5, 2002, this subsequent application cannot be considered as a re-registration. Therefore, this application can only be considered as a late registration.

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. A subsequent extension of the TPS designation has been granted by the Secretary of the Department of Homeland Security, with validity until September 9, 2006, 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 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).

To qualify for late registration, the applicant must provide evidence that during the initial registration period, he or she was either in a valid immigration status, had an application pending for relief from removal, was a parolee, or was the spouse or child of an alien currently eligible to be a TPS registrant, and he or she had filed an application for late registration within 60 days of the expiration or termination of the conditions described in 8 C.F.R. § 244.2(f)(2).

On October 31, 2003, the applicant was requested to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit a copy of his birth certificate or passport. In addition, the applicant was requested to submit evidence to establish his entry to the United States as of February 13, 2001; his continuous residence in the United States since February 13, 2001; and his continuous physical presence in the United States since March 9, 2001. In response, the applicant submitted a copy of the Social Security Card and birth announcements of his daughter, [REDACTED]. The applicant also submitted some evidence in an attempt to establish his date of entry, his continuous physical presence and his continuous residence in the United States; however, he did not submit any evidence to establish his eligibility for late registration.

On February 24, 2004, the director denied this application because it was filed outside of the initial registration period and because the applicant had failed to establish his eligibility for filing under the provisions of late registration. The director also found that the applicant had failed to establish his date of entry into the United States on or before February 13, 2001; his continuous residence in the United States since February 13, 2001; and his continuous physical presence in the United States since March 9, 2001. The director also denied the application because the applicant failed to submit a copy of his birth certificate.

On appeal, the applicant provides the following additional evidence in support of his eligibility for TPS: copies of Form W-2, Wage and Tax Statements, for the year 2001; two copies of hand-written rental receipts dated February 13, 2001 and March 9, 2001; copies of receipt notices from the Service dated September 28, 2001 and November 29, 2001; a copy of a letter dated December 10, 2001, from the Social Security Administration; and a copy of his Fingerprint Notification from the Service dated August 16, 2002.

The first issue concerns the applicant's failure to provide a copy of his birth certificate. A review of the record of proceedings reflects that the applicant had previously submitted a copy of his El Salvadoran birth certificate along with his initial TPS application. In addition, the record also contains a copy of the applicant's personal identification card (Cedula) issued to him in El Salvador on April 4, 1997. Therefore, the director's decision to deny the application on this ground will be withdrawn.

The second issue in this proceeding is whether the applicant is eligible for late registration.

The record of proceedings confirms that the applicant filed his application after the initial registration period had closed. The initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. To qualify for late registration, the applicant must provide evidence that during the initial registration period, he was either in a valid immigration status, had an application pending for relief from removal, was a parolee, or was the spouse or child of an alien currently eligible to be a TPS registrant, and he had filed an application for late registration within 60 days of the expiration or termination of the conditions described in 8 C.F.R. § 244.2(f)(2). A review of the record of proceedings reflects that the applicant has not submitted any evidence to establish that

he has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application for TPS late registration will be affirmed.

The third issue in this proceeding is whether the applicant has established his continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001.

A review of the record of proceedings reflects that the applicant provided evidence bearing the names of [REDACTED] and [REDACTED]. The applicant submitted earnings statements and an ID card from DCS Sanitation Management, Inc., bearing the name of [REDACTED] with a Social Security Number of [REDACTED]. Further, the applicant had provided a copy of an identification card bearing the name of [REDACTED] (SSN [REDACTED] issued by DCS; however, this is not an official document issued by a governmental authority.

The applicant has not submitted any credible evidence to establish the legal use of the alias [REDACTED] or [REDACTED]. As such, evidence provided by the applicant under the names of [REDACTED] or [REDACTED] cannot be considered in these proceedings. Evidence of the use of other names may include official court documents registered with the proper civil authorities. It is also noted that the applicant on his initial TPS application [LIN 01 276 52270] did not claim the use of any other names. Additionally, the applicant stated on his subsequent applications for temporary protected status and employment authorization that his Social Security number is [REDACTED].

It is also noted that the record contains copies of two Western Union money transfer receipts dated April 12, 1999 and July 6, 1999. However, the applicant claimed that he did not enter the United States until October 10, 1999. It does not seem reasonable that he would have used the services of Western Union when he was not even in the United States. Further, the applicant had previously submitted copies of these receipts bearing the name of [REDACTED]. The copies submitted later, however, clearly show that the original name on the receipts [REDACTED] had been altered and the applicant's name inserted in its place. 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 apparent alteration of the Western Union receipts noted above. The applicant appears to be not only attempting to establish the use of an alias, but also submitting evidence that has been altered in order to establish his eligibility for TPS. The reliability of the 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 on this ground will be affirmed.

Beyond the decision of the director, it also is noted that the applicant has provided insufficient evidence to establish the use of the alias: [REDACTED], and [REDACTED].

Although a Form G-28, Notice of Entry of Appearance as Attorney or Representative, has been submitted, the individual named is not authorized under 8 C.F.R. § 292.1 or 292.2 to represent the applicant. Therefore, the applicant shall be considered as self-represented and the decision will be furnished only to the applicant.

An alien applying for TPS 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.