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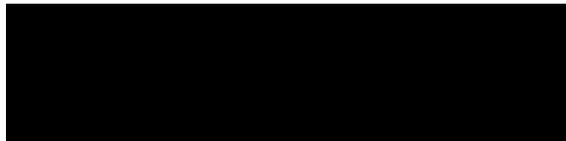
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Office: VERMONT SERVICE CENTER

Date: **AUG 19 2005**

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.

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

On appeal, the applicant asserts his claim of eligibility for TPS.

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 TPS 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 except as provided under section 244.3;
- (e) Is not ineligible under 8 C.F.R. § 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.

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.

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. An extension of the TPS designation has been granted 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 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 initially submitted the following documentation along with his TPS application:

1. A copy of an automobile insurance fund statement dated January 8, 2001 and bearing the name [REDACTED]
2. A copy of an automobile insurance policy dated September 22, 2000 and bearing the name [REDACTED]
3. A copy of a Virginia identification card issued September 17, 2001 and bearing the name [REDACTED]
4. A copy of an automobile insurance endorsement letter dated October 27, 2000 and bearing the name [REDACTED]
5. A copy of a letter from Maryland Automobile Insurance Fund dated January 8, 2001 and bearing the name [REDACTED]
6. A copy of an IRS Form W-2 for the tax year 2000 and bearing the name [REDACTED] and,
7. Copies of pay statements dated March of 1999 through July of 2000 and bearing the name [REDACTED]

On October 16, 2003, the applicant was requested to submit evidence establishing his continuous residence since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. The applicant, in response, provided the following documentation:

8. A photo copy of an El Salvadoran passport issued to [REDACTED] in Washington, DC on August 23, 2001;
9. A photo copy of a Maryland Learner's Permit issued April 16, 2003 and bearing the name [REDACTED];
10. A copy of a pay statement from Smartlink LLC dated November 14, 2003 and bearing the name [REDACTED];
11. A copy of a MVA form dated January 25, 2003 and bearing the name [REDACTED]; and,
12. Copies of utility bills, invoices, and statements of account dated 2003 and bearing the name [REDACTED]

The director determined that the applicant had failed to submit sufficient evidence to establish his eligibility for TPS and denied the application on March 3, 2004.

On appeal, the applicant contends that [REDACTED] and [REDACTED] are the same person and reasserts his claim of eligibility for TPS. The applicant submits the following documentation:

13. Affidavits from Pastor [REDACTED] and Deacon [REDACTED] of Iglesia Evangelica Apostoles y Profetas Cristo Es El Camino, Inc. in which they state that [REDACTED] and [REDACTED] are the same person, that they have known the applicant since February of 1999, and that the applicant has been working for the church since December 12, 2000;
14. Photo copies of three Employment Authorization Cards bearing the names [REDACTED] and [REDACTED] respectively;
15. Copies of pay statements dated January, February, June, August, and December of 2001 bearing the name [REDACTED];
16. Copies of IRS Form W-2, Form 1040, Maryland State Tax Return for 2001 and 2002, and bearing the name [REDACTED] and,
17. Copies of IRS Form W-2, Form 1040, Maryland State Tax Return for the year 2003 and bearing the name [REDACTED]

The applicant has not submitted sufficient evidence to establish his qualifying continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. The affidavits submitted by representatives of Iglesia Evangelica Apostoles y Profetas Cristo Es El Camino, Inc. (No. 13 above) have little evidentiary weight or probative value as they do not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(v). Specifically, the affiants do not explain the origin of the information to which they attest, nor do they provide the address where the applicant resided during the period of his involvement with the church. It is further noted that the affiants did not indicate the location of their church. The majority of the evidence submitted bears the name [REDACTED] and without corroborating

evidence, is insufficient to establish that [REDACTED] has continuously resided and continuously been physically present in the United States since February 13, 2001. The income tax returns (Nos. 6 and 16 above) do not specify the dates in which the employee was actually employed during any given year. The copies of the pay statements (Nos. 7, 10, and 15 above) do not contain the address where [REDACTED] lived during the requisite time period. The applicant's Virginia Identification Card, El Salvadoran passport, Maryland Learner's Permit, MVA application, 2003 tax returns, utility bills, and statements of account are all dated subsequent to the requisite time period.

The applicant claims to have lived in the United States since February of 1999. It is reasonable to expect that the applicant would have some other type of contemporaneous evidence to support the documentation submitted; however, no such evidence has been provided. The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b). It is determined 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.

Beyond the director's decision, the initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed his initial application with Citizenship and Immigration Services (CIS) on September 12, 2002. The applicant has not established that he is eligible for late registration. For this additional reason, the application must be denied.

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.