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FILE:



Office: VERMONT SERVICE CENTER

Date: **DEC 27 2005**

[EAC 02 150 52536]

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. A motion to reopen, filed by the applicant, was granted by the director and she again denied the application. The applicant appealed the director's decision on the motion, and it 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 initially denied the application after determining that the applicant had abandoned his application by failing to respond to a request for evidence.

On motion, the applicant stated that he did not respond to the notice requesting additional information because he does not understand English very well. The applicant also submits additional evidence in an attempt to establish continuous residence and continuous physical presence in the United States during the qualifying period.

The director reopened the case and subsequently determined that the applicant failed to establish 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. The director, therefore, denied the application.

On appeal, the applicant submits additional evidence in an attempt to establish continuous residence and continuous physical presence in the United States during the qualifying period.

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.

The term *continuously physically present*, as used 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 term *continuously resided*, as used 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 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. Subsequent extensions of the TPS designation have been granted, with the latest extension granted until September 9, 2006, upon the applicant's re-registration during the requisite 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 shows that the applicant filed his TPS application on March 28, 2002. The director initially denied the application as abandoned on August 4, 2003. In a motion to reopen, the applicant submitted:

1. Employment verification statements from [REDACTED]
2. A rental agreement issued on August 2000.
3. Copies of hand-written generic rent receipts dated monthly from December 1, 2000 to August 1, 2001.

The director reopened the case, and on May 6, 2004, and again on July 21, 2004, the applicant was provided the opportunity to submit evidence establishing continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States from March 9, 2001, to the filing date of the application. The applicant, in response, provided:

4. An employment verification letter from [REDACTED]
5. A statement from [REDACTED]
6. A copy of his State of Maryland identification card issued on August 22, 2002.
7. Copies of hand-written generic rent receipts dated monthly from September 2, 2000 to March 1, 2003.

The director determined that the applicant failed to submit sufficient evidence to establish his continuous residence and continuous physical presence in the United States during the qualifying period. Therefore, the director denied the application.

On appeal, the applicant submits another statement from [REDACTED] in an attempt to establish continuous residence and continuous physical presence in the United States. In his first letter, [REDACTED] Inc., Harwood, Maryland stated that the applicant began working for his company on April 2, 2001. In his second letter, [REDACTED] stated that the applicant began working for his company in January 2001. In his third letter, [REDACTED] stated that the applicant began working for his company in January 2001. According to [REDACTED] the applicant was a part-time day laborer and later became a full time employee. [REDACTED] stated that the applicant worked for him from September 2000 to March 2001. However, these statements 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)(i). Specifically, neither individual provided the address where the applicant resided during the period of his employment, and the statements are not in affidavit form. Furthermore, as pointed out by the director, [REDACTED] has indicated the applicant began his employment with his company on two different dates. However, this discrepancy has not been satisfactorily explained.

Similarly, [REDACTED] stated that he leased the applicant an apartment at [REDACTED]. However, [REDACTED] in his statement, stated that the applicant rented a room from him at [REDACTED] for three years from September 2000. Again, this discrepancy in the information concerning his landlord has not been satisfactorily explained. 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).

In regards to the hand-written generic rent receipts, the credibility of these documents is suspect since some of the receipts bear sequential receipt numbers, which precedes the other receipts. Therefore, these receipts carry little evidentiary weight and will not serve to establish the applicant's eligibility. The identification card was issued subsequent to the requisite dates and, therefore, cannot establish the applicant's continuous residence from February 13, 2001 and continuous physical presence from March 9, 2001 to the filing date of the TPS application.

The applicant has not submitted sufficient evidence to establish that he has met the criteria for continuous residence and continuous physical presence 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 application will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. 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.