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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services



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FEB 07 2005

FILE: [Redacted] Office: Nebraska Service Center Date:

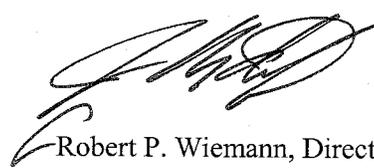
IN RE: Applicant: [Redacted]

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, 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 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 asserted his claim of eligibility for TPS and submitted evidence in support of his claim. The applicant also submitted evidence in support of his use of the alias [REDACTED]

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 temporary protected status 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 parole; 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.

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 entry on or prior to February 13, 2001, continuous residence in the United States since February 13, 2001, and continuous physical presence 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. A subsequent extension of the TPS designation has been granted by the Secretary of the Department of Homeland Security, with validity until March 9, 2005, 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).

Along with his application for TPS, the applicant provided the following documentation:

1. Copies of his Salvadoran birth certificate along with an English translation.
2. Copies of his Salvadoran personal identification card.

On February 1, 2003, the applicant was requested to submit evidence establishing his residence since February 13, 2001, and physical presence since March 9, 2001, in the United States. The applicant, in response, provided the following documentation:

3. A letter from the applicant stating that he had been in the United States since April 1998 and that he had been using the name of [REDACTED]
4. Copies of a lease agreement between Yearling Properties, Inc. and [REDACTED] and [REDACTED] for renting an apartment between January 1, 2001 and December 31, 2001.
5. Copies of deposit and rental receipts dated December 5, 2000, January 1, 2001, March 1, 2001, April 2, 2001, and May 2, 2001 for payments received from [REDACTED] and [REDACTED]
6. A copy of the applicant's notice of return of bond from the Immigration and Naturalization Service dated June 18, 2002.
7. Copies of pay-stubs from the [REDACTED] for [REDACTED] covering the weeks ending July 29, 2000, January 27, 2001, and February 24, 2001.
8. A copy of a utility bill dated September 21, 2001 for [REDACTED]

The director determined that the applicant had failed to submit sufficient evidence to establish his eligibility for TPS and denied the application on April 7, 2003. On appeal, the applicant reasserted his claim and submitted the following documentation:

9. A letter dated May 5, 2003 from [REDACTED] Human Resources/Safety Director of Buckeye Egg Farm, L.P., who stated that [REDACTED] had been in their employ since February 23, 1999. [REDACTED] had also stated that [REDACTED] real name is [REDACTED]
10. Copies of hand-written receipts bearing the applicant's name for immigration related matters. It is worth noting that only one receipt bears a date of 2001.
11. A copy of an international driver's license issued on August 1, 2000 by the International Automobile Driver's Company and bearing the name [REDACTED]

In his denial, the director stated that the applicant had failed to submit evidence to establish that he and [REDACTED] are one and the same person. The applicant stated, on appeal, that a letter from his employer "verifies" that he and [REDACTED] are one and the same person.

The international driver's license as detailed in No. 11 above, is not a valid government-issued document for identification purposes. It is worth noting that Article 24 of the United Nations Convention on Road Traffic (1949) authorizes the Department of State to empower certain organizations to issue International Driving Permits (IDPs). The Department of State has designated the American Automobile Association (AAA) and the American Automobile Touring Alliance as the only authorized distributors of IDPs. Additionally, the Department of State indicates that the IDP is not intended to replace valid state licenses and only be used as a supplement to a valid license.

The applicant had provided copies of his El Salvadoran government-issued birth certificate and national identity card bearing the name [REDACTED] as detailed in Nos. 1 and 2 above. The applicant has not submitted credible evidence to establish his legal use of the alias [REDACTED]. As such, only evidence bearing his name of [REDACTED] will be considered in these proceedings.

The applicant has not submitted any credible evidence to establish his qualifying residence in the United States since February 13, 2001, or his physical presence in the United States since March 9, 2001. He has, therefore, failed to establish that he has met the criteria 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.

It is noted that the applicant was ordered removed in absentia on July 1, 1999, at New York City, New York, based upon his apprehension near Brownsville, Texas, on April 4, 1998.

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.