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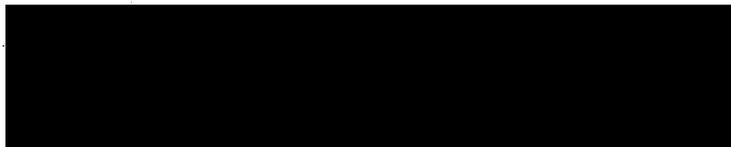
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529

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U.S. Citizenship
and Immigration
Services

MI



FILE:

[REDACTED]
[EAC 02 047 53687]

Office: VERMONT SERVICE CENTER

Date: JAN 12 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 (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 denied the application because 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 letter 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 El 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 October 19, 2001.

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).

In support of his initial TPS application, the applicant submitted documentation relating to his identity and nationality. He also submitted a letter from [REDACTED], president of [REDACTED] Contracting Co., Inc., dated October 11, 2001. The letter refers to the employment of [REDACTED], social security number [REDACTED]. In the first sentence of the letter, the applicant's name has been inserted in place of Mr. [REDACTED].

In letters dated May 30, 2003, and April 1, 2003, the director requested the applicant to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. In response, the applicant submitted:

1. A photocopy of a medical prescription issued to him by [REDACTED] Silver Spring, Maryland, dated February 10, 2001; and,
2. An affidavit from [REDACTED] Beltsville, Maryland, dated April 25, 2003. Mr. [REDACTED] states that the applicant has been renting a room in Mr. [REDACTED] home since May 2000, paying \$300.00 per month.

The director determined that the documentation submitted by the applicant did not establish his qualifying continuous residence and continuous physical presence in the United States. The director denied the application on July 16, 2003.

On appeal, the applicant resubmits photocopies of Nos. 1 and 2, above. The applicant asks that his case be reviewed because he needs an Employment Authorization Document (EAD) to work and reside legally in the United States.

The employment affidavit from Mr. [REDACTED] has no evidentiary weight or probative value as it does not appear to relate to the applicant. Discrepancies encountered in the evidence presented pertain to: This discrepancy calls into question the applicant's ability to document the requirements under the statute and regulations. Doubt cast on any aspect of the evidence as submitted may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. It is incumbent on the petitioner to resolve any inconsistencies in the record by independent objective evidence; any 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. (Comm. 1988). Furthermore, the employment letter does not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(i). Specifically, the affiant does not provide the address where the employee resided during the period of his employment, and any period(s) of layoff. Also, the affiant did not indicate the location of his business or verify that the business was even located inside the United States.

On his initial TPS application, the applicant indicated that he had last entered the United States without inspection at Dulles International Airport, Chantilly, Virginia, in March 2000. It is reasonable to expect that the applicant would have some sort of corroborative evidence, such as an airline ticket or itinerary, and/or explanation to

support his claim that he was able to board a plane in a foreign country and elude authorities by entering the United States through an international airport facility.

The affidavit by Mr. [REDACTED] (No. 2, above) is also not supported by corroborative documentation, such as rent receipts or evidence of correspondence mailed to him at that address. Finally, based on the affiant's statements, he was paying rent of \$300.00 per month for almost three years; however, the applicant has not provided evidence of his employment income, bank statements, or other means through which he was able to pay that rent.

Based on a review of the record, it is concluded that the documentation submitted by the applicant is not credible. The documentation provided is not sufficient to establish that the applicant 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.