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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[LIN 03 212 51640]

Office: NEBRASKA SERVICE CENTER

Date: JUN 08 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.

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 (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 that he was eligible for late registration. The director also found that the applicant had 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 brief statement 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 since March 9, 2001. The initial registration period for 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 Citizenship and Immigration Services (CIS) on June 27, 2003, more than nine months after the initial registration period had ended.

The burden of proof is upon the applicant to establish that he or she meets the above requirements. Applicants must 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).

In support of his initial application, the applicant submitted photocopies of:

1. His El Salvadoran birth certificate, with English translation;
2. His El Salvadoran *cedula* (national identity document);
3. A letter, dated June 6, 2003, from [REDACTED] pastor of the [REDACTED] Northfield, Minnesota, [REDACTED] states that he met the applicant in April 2003; and,
4. A letter, dated June 5, 2003, from [REDACTED] stating that he has known the applicant for five years.

On October 15, 2003, the applicant was requested to submit evidence to establish his eligibility for late registration. The applicant was also requested to submit evidence to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. The record reflects that the applicant failed to respond to the request.

The director determined that the applicant had failed to submit sufficient evidence to establish his eligibility for TPS and denied the application on December 17, 2003.

On appeal, the applicant submits the following additional documentation:

5. A letter, dated January 11, 2004, from [REDACTED] of the [REDACTED] Northfield, Minnesota. [REDACTED] states that the applicant has been attending regularly at the church since June 2000;
6. A letter, dated January 11, 2004, from [REDACTED] Northfield, Minnesota, stating that the applicant has been living in Minnesota since January 2001;
7. A letter, dated January 13, 2004, from [REDACTED] Faribault, Minnesota, stating that they have known the applicant "for a long time;"
8. A second letter, dated January 7, 2004, from [REDACTED] stating that the applicant worked for him doing odd jobs from February to April 2001;
9. An undated letter from [REDACTED] Northfield, Minnesota, stating that the applicant has lived with his family since June 2000;
10. A photocopy of a letter, dated January 6, 2003, from [REDACTED] and [REDACTED] indicating that the applicant received services on December 19, 2002; and,
11. Receipts from [REDACTED] dated April 19, 2002.

The record confirms that the applicant filed his TPS application after the initial registration period had expired. The applicant has submitted documentation in an attempt to establish his continuous residence and continuous physical presence in the United States. However, this documentation does not mitigate the applicant's failure to file his Form I-821 within the initial registration period. 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).

The applicant claims to have lived in the United States since April 11, 1997. It is reasonable to expect that he would have a variety of objective evidence to support this claim. Letters from acquaintances (Nos. 4, 6, 7, and 8, above) are not, by themselves, persuasive evidence of residence and physical presence. Nos. 3, 10, and 11 are dated well after the dates required to establish continuous residence and continuous physical presence. No. 9 has little weight or probative value as it is undated.

It is concluded that the applicant has failed to overcome the grounds of denial cited by the director. The applicant has not submitted sufficient evidence to establish 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 applicant has also failed to establish that he was eligible for late registration. 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.