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U.S. Citizenship
and Immigration
Services

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FILE:

[REDACTED]
[LIN 02 219 51119]

Office: Nebraska Service Center

Date: JUN 10 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 after determining that the applicant failed to establish his date of entry into the United States as of February 13, 2001, and 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 record reveals that the applicant filed his application with the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on June 20, 2002. The director denied the application on January 23, 2003. The applicant filed an appeal to the director's decision on August 18, 2003. However, since the appeal was untimely filed, the director treated the appeal as a motion to reopen. The director dismissed the motion to reopen on October 27, 2003, after he concluded that the grounds of denial had not been overcome.

On December 16, 2003, the applicant submitted a subsequent motion to reopen from the director's decision. The director dismissed this second motion on February 4, 2004. On March 3, 2004, the applicant filed an appeal from the director's decision which is now before the AAO.

On appeal, the applicant reasserts his claim of eligibility for TPS and submits evidence in an attempt to establish his 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 designated by the Attorney General 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 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.
- (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.

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. 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 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).

On March 3, 2004, the applicant submitted an appeal to the director's February 4, 2004 decision. On appeal, the applicant submits the following documentation: a copy of a rental agreement between Mr. [REDACTED] and the applicant dated September 21, 2000; a copy of a letter dated November 23, 2003, from Mr. [REDACTED] who stated that the applicant had worked as private contractor for [REDACTED] from November 2000 to October 2001; and a church letter dated February 29, 2004, from Reverend [REDACTED] of the [REDACTED] [REDACTED] who stated that the applicant has been an active member since January 2001.

The employment affidavit from Mr. [REDACTED] has little evidentiary weight or probative value as it 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 applicant resided during the period of his employment. It is further noted that the affiant did not indicate the location of his business or provide a telephone number to verify that

the business was even located inside the United States. The affidavit from Pastor [REDACTED] has little evidentiary weight or probative value as it does not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(v). Specifically, the pastor does not explain the origin of the information to which he attests, nor does he provide the address where the applicant resided during the period of his involvement with the church. In addition, the rental agreement dated September 21, 2000, between Mr. [REDACTED] and the applicant is generic and is not signed by Mr. [REDACTED]. It is noted that the applicant had submitted the same letter from Mr. [REDACTED] the rental agreement, and the letter from Pastor [REDACTED] along with his second motion to reopen on December 16, 2003. The director had already taken into consideration this evidence in his decision to dismiss the motion to reopen. 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.

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.

It is noted that the applicant appears to be attempting to prolong the appeal process indefinitely and outside of any remedies remaining available to him.

ORDER: The appeal is dismissed.