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**U.S. Citizenship  
and Immigration  
Services**

**PUBLIC COPY**

M

FILE:

[REDACTED]

Office: NEBRASKA SERVICE CENTER

Date:

**MAR 28 2005**

[LIN 03 176 50112]

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Nebrasks 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 was eligible for late registration. The director also found that the applicant had failed to submit sufficient evidence to establish his identity, continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001.

On appeal, the applicant submits additional evidence.

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, 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. 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 record reveals that the applicant filed his application with Citizenship and Immigration Services (CIS) on May 5, 2003.

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 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 first issue in this proceeding is whether the applicant is eligible for late registration.

The record of proceedings confirms that the applicant filed his application after the initial registration period had closed. To qualify for late registration, the applicant must provide evidence that during the initial registration period, he was either in a valid immigration status, had an application pending for relief from removal, was a parolee, or was the spouse or child of an alien currently eligible to be a TPS registrant, and he had filed an application for late registration within 60 days of the expiration or termination of the conditions described in 8 C.F.R. § 244.2(f)(2).

On August 4, 2003, the applicant was requested to submit evidence to establish his eligibility for late initial registration; a photo identification document; and, 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 record does not contain a response from the applicant.

The director determined that the applicant had failed to establish he was eligible for late registration and denied the application on October 17, 2003.

On appeal, the applicant has not submitted a statement or any additional evidence to establish his eligibility for late registration.

The applicant has not submitted sufficient evidence that he has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2)(iv). Consequently, the director's conclusion that the applicant has not established his eligibility for late initial registration will be affirmed.

The second issue in this proceeding is whether the applicant has established continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001.

The applicant initially submitted the following:

- (1) a letter dated April 25, 2003, from [REDACTED] Officer at the First National Bank of Northfield in Northfield, Minnesota, stating that the applicant's family "is known to me since 1996 as valued bank customers";
- (2) a letter dated April 24, 2003, from Rev [REDACTED] pastor of the Church of St. Dominic in Northfield, Minnesota, stating that the applicant "has lived in Northfield for nearly five years. He has attended Catholic services at this church and so I have seen him from time to time."

The director determined that the applicant had failed to submit sufficient evidence to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time frames and denied the application.

On appeal, the applicant submits the following:

- (3) a letter dated November 11, 2003, from [REDACTED] stating that the applicant has lived with his family since February 2001 in [REDACTED] in Northfield, Minnesota, first in mobile [REDACTED] then at mobile home #39, as of January 2002, and at mobile [REDACTED] of June 2002;
- (4) an undated letter from [REDACTED] Cultural Diversity Coordinator of the City of Northfield, Northfield, Minnesota, stating that the applicant visited her office on August 20, 2003, and indicating that he reported his home address as of that date as [REDACTED] Northfield, MN [REDACTED]
- (5) a statement from an unidentified church for the period from January 1, 2003 through September 30, 2003, indicating that the applicant donated \$143.00 to the church from May through September 2003;
- (6) a monthly selection announcement from the [REDACTED] stating that the applicant would receive the monthly selection if he did not respond by November 15, 2002;
- (7) an invoice dated June 18, 2002, from the [REDACTED]
- (8) a summons dated September 30, 2003, from the County of Rice, State of Minnesota, informing the applicant that he had been cited for driving without a valid driver's license in violation of section 171.02;
- (9) a receipt dated January 21, 2003, from the Court Administrator, Rice County, Minnesota, acknowledging receipt of \$140 from the applicant; and,
- (10) a receipt dated October 23, 2003, from the Court Administrator, Rice County, Minnesota, acknowledging receipt of \$165.00 from the applicant.

The letter from Ms. [REDACTED] (No. 1 above) 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, Ms. [REDACTED] does not provide the address where the applicant resided during the period he has been a customer at her bank. Further, Ms. [REDACTED] merely states that the applicant's family has been customers at her bank since 1996; she does not state that the applicant himself has been a customer at her bank since 1996.

The letter from Reverend [REDACTED] (No. 2 above) 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 provide the address where the applicant resided during the period of his involvement with the church.

The applicant has provided evidence establishing the applicant's presence in the United States since June 18, 2002, but he has not provided sufficient evidence to establish his continuous residence and continuous

physical presence in the United States during the period from February 13, 2001, to June 18, 2002. He has, therefore, failed to establish that she 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 TPS on these grounds will be affirmed.

Finally, the applicant has failed to provide an official national photo identification document. Therefore, the director's decision to deny the application on this ground will also 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.