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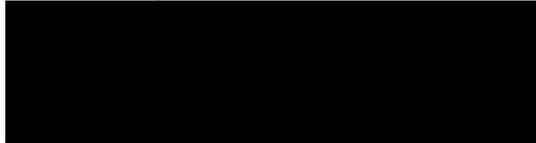
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U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm., A3042  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

M1



FILE:

[REDACTED]  
[EAC 02 211 52271]

Office: VERMONT SERVICE CENTER

Date: MAY 05 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.

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, 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 continuous residence and his continuous physical presence in the United States during the requisite periods.

On appeal, the applicant provides 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 who is a national of a foreign state designated by the Attorney General 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 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.

The issues raised by the director to be addressed in this proceeding are whether the applicant has established his continuous residence and his continuous physical presence in the United States during the required timeframes.

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 March 9, 2005, upon the applicant's re-registration during the requisite time period. The record reveals that the applicant filed his application with the Immigration and Naturalization Service now Citizenship and Immigration Services (CIS), on June 5, 2002.

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).

In a notice of intent to deny, dated June 5, 2003, the applicant was requested to submit evidence to establish his continuous residence and his continuous physical presence in the United States during the requisite timeframes. In response, the applicant provided several affidavits.

The director found that the affidavits provided by the applicant were not sufficient in establishing 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 director denied the application on August 12, 2003.

On appeal, the applicant states that he is sorry for not sending the required information. The applicant submits: copies of three non-standard type leases covering periods from January 1, 2001 to January 1, 2002, January 1, 2002 to January 1, 2003, and January 1, 2003 to January 1, 2004. The leases list the landlord as [REDACTED] and the applicant as the tenant. The address given for each lease is [REDACTED] Terrace, Wheaton, Maryland. The applicant also submits: a copy of an envelope, not postmarked, addressed to the applicant; a copy of a letter in a foreign language, which appears to be dated January 31, 2001; a copy of his Social Security card; and, a copy of his employment authorization card valid from March 10, 2003 to September 9, 2003.

It is noted that the aforementioned leases indicate that the applicant was residing at the above-mentioned address in Wheaton, Maryland 20902 from January 1, 2001 to January 1, 2004. However, the record contains a letter, dated September 15, 2003, written by the applicant, who states that his address is [REDACTED]. The record also contains another letter, dated June 2, 2002, from the applicant in which his address is shown as [REDACTED]. The record further contains a letter dated May 28, 2002 from [REDACTED], who certifies that the applicant resides at [REDACTED]. It is noted that [REDACTED] address is listed in the aforementioned letter as [REDACTED]. In another letter from [REDACTED] dated June 20, 2003, she lists her address as [REDACTED] and states that she has been the applicant's "tenant since the time he arrived to the U.S.A. until the end of the month of January, 2001." In addition, it is noted that the applicant, on June 30, 2003, responded to the Service's notice of intent to deny, which was sent to the address at [REDACTED]. These discrepancies in the addresses and dates have not been explained. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and 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, 591-92 (BIA 1988). Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. *Id.*, 582, 591.

The applicant has provided insufficient evidence on appeal 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. There are far too many discrepancies in the majority of the documentation provided for them to be considered as

sufficient credible evidence to establish that the applicant 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.

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.