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U.S. Citizenship
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FILE: [REDACTED]
[EAC 01 253 54661]

Office: VERMONT SERVICE CENTER

Date: NOV 02 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 "R. Wiemann".

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center, and is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The applicant claims to be 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 an additional document.

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.

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. On July 9, 2002, the Attorney General announced an extension of the TPS designation until September 9, 2003. Subsequent extensions of the TPS designation have been granted, with the latest extension valid 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 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).

The applicant filed his initial Form I-821, Application for Temporary Protected Status, on August 15, 2001. At the time of filing his application, the applicant indicated that he had last entered the United States without inspection on January 15, 2001. In support of the application, the applicant submitted:

1. A photocopy of his El Salvadoran birth certificate, with no English translation;
2. A photocopy of his El Salvadoran personal identification card (*cédula*), issued in El Salvador on July 23, 2001; and,
3. An affidavit, dated August 9, 2001, from an acquaintance, [REDACTED] attesting to the applicant's residence and physical presence in the United States.

On May 19, 2003, and again on August 19, 2003, the applicant was requested 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:

4. A letter, dated June 4, 2003, from the [REDACTED] Huntington Station, New York, stating that the applicant had been employed since January 2000; and,
5. A letter, dated June 9, 2003, from [REDACTED], stating that the applicant had been his tenant since December 2000.

The director determined that the applicant had not submitted sufficient evidence to establish his eligibility for TPS and denied the application on March 17, 2004.

On appeal, the applicant requests that his case be reviewed. In support of his appeal, the applicant submits the following additional document:

6. A letter, dated January 20, 2004, from Rev. [REDACTED] pastor of Mt. [REDACTED], Huntington Station, New York, stating that the applicant had attended worship services since March 2001.

The applicant claims to have continuously lived in the United States from January 15, 2001, to the date of filing his TPS application in August 2001. It is reasonable to expect that he would have a variety of credible, contemporaneous evidence to support this claim. A letter from an acquaintance (No. 3, above) is not, by itself, persuasive evidence of qualifying continuous residence and continuous physical presence. The employment letter (No. 4) 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, it is not in the form of an affidavit and does not provide the address where the applicant resided during the period of his employment, the exact period(s) of employment, the period(s) of layoff (if any), and the applicant's specific duties with the company. Similarly, the pastor's letter (No. 6) has little evidentiary weight or probative value as it does not provide the specific date that the applicant was officially registered as a parishioner at the church. Furthermore, the rent letter (No. 5) is not supported by objective evidence such as rent receipts and a lease agreement.

It is noted that there are discrepancies encountered in the evidence presented pertaining to the applicant's claimed date of entry into the United States. The applicant claims to have entered the United States in January 2001; however, Nos. 4 and 5, above assert that he was in the United States as early as January 2000. Furthermore, the applicant's *cédula* (No. 2) was issued in El Salvador in July 2001, after his claimed date of entry into the United States. Although the applicant has submitted a document indicating that No. 2 was prepared in El Salvador and subsequently forwarded to him in the United States, it is unclear as to how the document could contain his fingerprints if he were not present during its issuance. These discrepancies have not been explained and call 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 application. Further, it is incumbent on the applicant 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).

Based on a review of the record, it is concluded that the applicant has not submitted sufficient evidence 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 will be affirmed.

The application will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. 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.